

ORDINANCE NO. 3967

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING EDMONDS CITY CODE 10.80 REGARDING THE CITIZENS' COMMISSION ON COMPENSATION OF ELECTED OFFICIALS TO COMPLY WITH RCW 35.21.015, SALARY COMMISSIONS, AND TO ALLOW CITY COUNCILMEMBERS AND THE MAYOR TO WAIVE THEIR SALARY DURING THEIR TERM OF OFFICE.

WHEREAS, as a means of preventing the use of public office for self-enrichment, the Washington State Constitution, Article 11, Section 8, initially prohibited any changes in the pay applicable to an office having a fixed term, either after the election of that official or during his or her term; and

WHEREAS, by Article 30 (Amendment 54), adopted in 1967, and an amendment to Article 11, Section 8 (Amendment 57) in 1972, the rule was modified to permit pay increases for officials who do not fix their own compensation; and

WHEREAS, the State Legislature adopted RCW 35.21.015 to provide the ability for city elected officials to receive mid-term compensation increases, provided that a local salary commission was established and that the commission set compensation at a higher level; and

WHEREAS, RCW 35.21.015 authorizes the creation of a salary commission of city residents that may increase the salary of elected officials effective mid-term, and decrease the salary of elected officials effective upon subsequent terms of office, by filing a change in salary to the city clerk without further action of the city council; and

WHEREAS, the City of Edmonds has established a Citizens' Commission on Compensation of Elected Officials (Citizens' Commission), ECC 10.80; and

WHEREAS, the Citizens' Commission requires that such changes in salary shall only become effective upon adoption by the city council under ECC 10.80.060, which contravenes the language and intent of the state statute; and

WHEREAS, RCW 35.21.015(3) precludes the city council from having any ability to act upon the changes to the compensation schedule established by the Citizens' Commission; and

WHEREAS, changes the compensation schedule established by the Citizens' Commission are not recommendations to be voted on by the city council, but rather changes that shall become law upon filing with the city clerk, without any input or action by the city council; and

WHEREAS, Article XI, Section 8 of the Washington Constitution prohibits a city council or a citizen salary commission from diminishing the salary of the mayor or a councilmember after his or her election or during his or her term of office; and

WHEREAS, RCW 35.21.015(2) articulates the method of appointment of members of the Citizens' Commission; and

WHEREAS, ECC 10.80.040 was out of date and out of alignment with RCW 35.21.015(2); and

WHEREAS, a city councilmember or mayor may voluntarily waive his or her salary during his or her term of office without running afoul of the Washington Constitution; and

WHEREAS, the Edmonds City Code does not make clear that city councilmembers and the mayor may voluntarily waive any or all of his or her salary during his or her term of office;

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 10.80.010 of the ECC, entitled "Purpose," is hereby amended to read as follows (new text is shown in underline; deleted text is shown in ~~strike-through~~):

10.80.010 Purpose.

It is the policy of the city of Edmonds to base the compensation of the city's elected officials on realistic standards so that elected officials of the city may be compensated according to the duties of their offices, and so that citizens of the highest quality may be attracted in public service. To effectuate this policy, the Edmonds' citizens commission on the compensation of elected officials ("compensation commission") is hereby created consisting of seven members with duties and responsibilities as set forth below.

Section 2. Section 10.80.020 of the ECC, entitled “Duties,” is hereby amended to read as follows (new text is shown in underline; deleted text is shown in ~~strike-through~~):

10.80.020 Duties.

The compensation commission shall study the relationship of compensation for each respective position. Except as provided otherwise below, the compensation commission shall be solely responsible for its own organization, operation, and action and shall enjoy the fullest cooperation of all elected officials, departments and agencies of the city of Edmonds. For the purposes of this chapter, the term “compensation” shall include salary, wages, health insurance, allowances, benefits, and other forms of remuneration commonly received in return for services.

Section 3. Section 10.80.030 of the ECC, entitled “Eligibility,” is hereby amended to read as follows (new text is shown in underline; deleted text is shown in ~~strike-through~~):

The compensation commission shall consist of seven members, all of whom must be at least 21 years of age, registered to vote, and maintain personal residence within the boundaries of the city of Edmonds. No city of Edmonds officer, official or public-employee, nor any immediate family member of ~~the such officer, official or employee,~~ shall be eligible for membership on the compensation commission. As used in this section, the phrase “immediate family” means parents, spouse, siblings, children, or dependent relative of the official or employee, whether or not they are living in the same household.

Section 4. Section 10.80.040 of the ECC, entitled “Appointment,” is hereby amended to read as follows (new text is shown in underline; deleted text is shown in ~~strike-through~~):

10.80.040 Appointment.

All ~~Two~~ members of the compensation commission shall be appointed by the mayor ~~subject to city council confirmation, and one member shall be appointed by the mayor; the appointed three members shall select the other four members.~~ The members of the compensation commission shall serve four-year terms originally commencing on October 1, 1999, except that the first seven members shall be appointed for different terms as follows: (A) one member

appointed by the city council for a period of four years; (B) one member appointed by the city council for a period of two years; (C) two of the members selected by those three members to serve for periods of four years; and (D) two of the members elected by those three members to serve for periods of two years. No person may serve more than two consecutive terms. Members of the compensation commission may be removed by the mayor, with the approval of the council, only for cause of incapacity, incompetence, neglect of duty, malfeasance in office, or for a disqualifying change of eligibility. The unexcused absence of any member of the commission from two consecutive meetings of the commission shall constitute relinquishment of that person's membership on the commission. Such relinquishment creates a vacancy in that person's position on the commission. Upon a vacancy in any position on the commission, a successor shall be selected and appointed to fill the unexpired term. ~~The selection and appointment shall be concluded within 30 days of the date that position becomes vacant and shall be conducted in the same manner as originally provided for that person's appointment.~~ Notwithstanding the appointment provisions herein, commissioners that were appointed under a previous process shall be allowed to complete their terms.

Section 5. Section 10.80.050 of the ECC, entitled "Operation," is hereby amended to read as follows (new text is shown in underline; deleted text is shown in ~~strike-through~~):

10.80.050 Operation.

The members of the compensation commission shall elect a chair from among their number. Except as provided below, the election of the chair and other decisions of the compensation commission shall require an affirmative vote of a simple majority of the commission. The commission shall prepare and approve a recommended schedule of compensation schedule by an affirmative vote of not less than a simple majority ~~five members of~~ the commission plus one member. Members of the commission shall receive no compensation for their services. If the commission is not able to approve the compensation schedule by an affirmative vote of a simple majority of the commission plus one member, then the previous schedule, or the substantial equivalent thereof, shall be deemed to remain in effect.

Section 6. Section 10.80.060 of the ECC, entitled “Compensation schedule recommendation,” is hereby amended to read as follows (new text is shown in underline; deleted text is shown in ~~strike-through~~):

10.80.060 Compensation schedule ~~recomm~~endation.

~~The~~ Once approved, the commission shall file its ~~schedules of recommended~~ compensation schedule for elected officials of the city with the city clerk no later than the first Monday in ~~May~~ August of each even-numbered year. The signature of the chair of the commission shall be affixed to each schedule submitted to the city clerk. The chair shall certify that the schedule has been adopted in accordance with the provisions of this chapter and with the rules, if any, of the commission. The clerk shall publish a notice on the city’s website that the compensation schedule has been filed. Such schedules shall ~~become effective only upon~~ adoption by the city council and in accordance with state law. incorporated into the city or town budget without further action of the city council or salary commission except that when the city council adopts the budget, it must do so without amending such schedules.

Section 7 A new section 10.80.065, entitled “Effective date of salary increases and decreases,” is hereby added to the Edmonds City Code to read as follows:

10.80.065 Effective date of salary increases and decreases.

All salary increases established by the commission shall be effective on January 1 of the year after the schedule was approved; provided, however, that any compensation decreases approved by the compensation commission shall only become effective upon commencement of the subsequent term of the applicable office.

Section 8. Section 10.80.070 of the ECC, entitled “Open meetings,” is hereby amended to read as follows (new text is shown in underline; deleted text is shown in ~~strike-through~~):

10.80.070 Open meetings.

All meetings, actions, hearings, and business of the commission shall be subject to the Open Public Meetings Act as set forth in Chapter 42.30 RCW. Prior to the filing of any

compensation schedule, the commission shall hold no fewer than two public hearings thereon within the ~~two~~four months immediately preceding the filing of its ~~recommendation~~
compensation schedule.

Section 9. Section 10.80.080 of the ECC, entitled “Referendum,” is hereby amended to read as follows (new text is shown in underline; deleted text is shown in ~~strike-through~~):

10.80.080 Referendum.

Any ordinance enacting change in compensation shall be subject to referendum petition by the citizens in accordance with city ordinance. Any ordinance which enacts a ~~commission recommendation~~compensation schedule shall be subject to Article XXX, Section 1 of the Washington State Constitution regarding increases in elected officials’ compensation during their term of office.

Section 10. Section 10.80.090 of the ECC, entitled “Reimbursement unaffected,” is hereby amended to read as follows (new text is shown in underline; deleted text is shown in ~~strike-through~~):

10.80.090 Reimbursement unaffected.

The mayor and councilmembers shall receive reimbursement for their ~~action~~actual and necessary expenses incurred in the performance of the duties of their office, or the council by ordinance may provide for a per diem allowance. Procedure for approval of claims for expenses shall be as provided by ordinance, consistent with state law.

Section 11. A new section 10.80.100, entitled “Waiver of compensation by city councilmembers and mayor,” is hereby added to the Edmonds City Code to read as follows:

10.80.100 Waiver of compensation by city councilmembers and mayor.

- A. City councilmembers and the Mayor may voluntarily waive and elect not to be paid all or any portion of the compensation during his or her term of office. Notice of waiver must be:
1. In writing and delivered to the city treasurer prior to the effective date; and
 2. Signed by the individual and his or her spouse, if married, as required by RCW 49.48.100. Signature(s) shall be before a notary public.
- B. Compensation waived under the notice of waiver is irrevocably donated to the City of Edmonds. Officials may not seek back pay to recover compensation waived under the notice of waiver.
- C. It shall be presumed that compensation or portions of compensation that are declined or waived pursuant to this section shall be unrestricted in its use by the city; provided, that this presumption may be rebutted by the councilmember or the mayor directing in writing that his or her waived compensation be utilized for a specific city purpose.
- D. The waiver shall be effective for all compensation earned following the effective date and continue in effect until withdrawn by a writing signed by the individual or the individual's spouse delivered to the city treasurer.

Section 12. Severability. If any section, subsection, clause, sentence, or phrase of this ordinance should be held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 13. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:


MAYOR DAVE EARLING

ATTEST/AUTHENTICATED:



CITY CLERK, SCOTT M. PASSEY

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY



JEFF TARADAY

FILED WITH THE CITY CLERK:	April 11, 2014
PASSED BY THE CITY COUNCIL:	April 15, 2014
PUBLISHED:	April 20, 2014
EFFECTIVE DATE:	April 25, 2014
ORDINANCE NO.	3967

SUMMARY OF ORDINANCE NO. 3967

of the City of Edmonds, Washington

On the 15 day of April, 2014, the City Council of the City of Edmonds, passed Ordinance No. 3967. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING EDMONDS CITY CODE 10.80 REGARDING THE CITIZENS' COMMISSION ON COMPENSATION OF ELECTED OFFICIALS TO COMPLY WITH RCW 35.21.015, SALARY COMMISSIONS, AND TO ALLOW CITY COUNCILMEMBERS AND THE MAYOR TO WAIVE THEIR SALARY DURING THEIR TERM OF OFFICE.

The full text of this Ordinance will be mailed upon request.

DATED this 16 day of April, 2014.



CITY CLERK, SCOTT PASSEY

Everett Daily Herald

Affidavit of Publication

STATE OF WASHINGTON }
COUNTY OF SNOHOMISH } ss

The undersigned, being first duly sworn on oath deposes and says that she is Principal Clerk of THE HERALD, a daily newspaper printed and published in the City of Everett, County of Snohomish, and State of Washington; that said newspaper is a newspaper of general circulation in said County and State; that said newspaper has been approved as a legal newspaper by order of the Superior Court of Snohomish County and that the notice is a true copy of City Ordinances - Ordinance Nos. 3965, 3966 & 3967 556872

a printed copy of which is hereunto attached, was published in said newspaper proper and not in supplement form, in the regular and entire edition of said paper on the following days and times, namely:

1 issue(s), such publication commencing on 04/20/2014 and ending on 04/20/2014 and that said newspaper was regularly distributed to its subscribers during all of said period. The amount of the fee for such publication is \$ 53.32.

Karen E. Zorn

Subscribed and sworn before me on this 21 day of April, 2014.

Susan L. Stoltz

Notary Public in and for the State of Washington, residing at Everett, Snohomish County.

City of Edmonds - LEGAL ADS EDH101416 - PO: ORD. 3965, 3966 & 67

ORDERED BY: SCOTT PASSEY

* SUSAN L. STOLTZ *
STATE OF WASHINGTON
NOTARY --- PUBLIC
My Commission Expires 12-20-2017

ORDINANCE SUMMARIES
of the City of Edmonds, Washington
On the 15th Day of April, 2014, the City Council of the City of Edmonds, Washington, passed the following Ordinances. The summaries consisting of titles are provided as follows:
ORDINANCE NO. 3965
AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING EDMONDS CITY CODE, CHAPTER 3.75 RELATING TO THE EDMONDS DOWNTOWN BUSINESS IMPROVEMENT DISTRICT, ADDING SECTION 3.75.075, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.
ORDINANCE NO. 3966
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE 2014 SALARY SCHEDULES FOR ALL CITY PERSONNEL.
ORDINANCE NO. 3967
AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING EDMONDS CITY CODE 10.80 REGARDING THE CITIZENS' COMMISSION ON COMPENSATION OF ELECTED OFFICIALS TO COMPLY WITH RCW 35.21.015, SALARY COMMISSIONS, AND TO ALLOW CITY COUNCILMEMBERS AND THE MAYOR TO WAIVE THEIR SALARY DURING THEIR TERM OF OFFICE.
The full text of any Ordinance will be mailed upon request. Dated this 17th Day of April, 2014.
CITY CLERK, SCOTT PASSEY
Published: April 20, 2014.