



Meeting Agenda

City Council

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8244

Tuesday, May 17, 2016

7:00 PM

Council Chambers

1. ROLL CALL

1.A ANNOUNCEMENTS

1.B APPROVAL OF AGENDA

2. SPECIAL RECOGNITION

2.A [16-0506](#) Special Recognition - Walker John and Ron Thomas, recipients of Futurewise's Annual Livable Communities Award on March 16, 2016

2.B [16-0469](#) Special Recognition - Bicycle Commuter Month Proclamation

Attachments: [Proclamation](#)

3. PUBLIC COMMUNICATION

(Estimated Time: 0-30 Minutes) (Sign-up Sheets are provided in the Foyer.)

During this portion of the meeting, citizens may address the City Council regarding items related to City business, including items on the Agenda. In order for the City Council to maintain impartiality and the appearance of fairness in upcoming matters and to comply with Public Disclosure Law for political campaigns, speakers will not be permitted to make public comments before the Council in these three areas: (1) on agenda items for which the City Council either held a Public Hearing in the last 45 days, or will hold a Public Hearing within 45 days, or (2) where the public testimony may implicate a matter on which the City Council will be required to act in a quasi-judicial capacity, or (3) where the speaker promotes or opposes a candidate for public office or a ballot measure.

Individual comments are limited to three (3) minutes or less. In order to hear as many people as possible during the 30-minutes set aside for Public Communication, the City Council will refrain from commenting on individual remarks until all public comment has been taken. The City Council will allow for additional public comment to be taken at the end of the meeting for those who signed up at the beginning of the meeting and did not get an opportunity to speak during the allotted 30-minutes.

COUNCIL RESPONSE TO PUBLIC COMMUNICATION (Optional)

4. CONSENT CALENDAR

(Items of a Routine Nature)

4.A [16-0636](#) Approval of May 10, 2016 City Council Meeting Minutes

Attachments: [Minutes](#)

4.B [16-0630](#) Approval of Community Development Block Grant (CDBG) Program

Year 2015 Action Plan Amendments

Attachments: [Proposed Amendments](#)
[Action Plan](#)
[Public Comments on Proposed Amendments](#)

- 4.C [16-0615](#) Approval of Multi-family Housing Limited Property Tax Exemption Agreement for 321 Legion Way

Attachments: [Agreement](#)

- 4.D [16-0616](#) Approval of Multi-family Housing Limited Property Tax Exemption Agreement for 512 12th Avenue SE

Attachments: [Agreement](#)

4. SECOND READINGS - None

4. FIRST READINGS

- 4.E [16-0606](#) Approval of Ordinance Amending the Rezone Hearing Body

Attachments: [Ordinance](#)
[City Council Minutes 10.27.15](#)
[City Council Staff Report 10.27.15](#)
[Factors List](#)
[WCIA Guidance](#)
[Planning Commission Minutes 9.23.13](#)

- 4.F [16-0643](#) Approval of Ordinance Amending Olympia Municipal Code (OMC) Chapter 9.44 by Adopting the Crime of Minor in Possession or Consumption of Alcohol, Suppling Liquor to Minor, and Minor Exhibiting the Effects of Having Consumed Liquor Pursuant to RCW 66.44.270.

Attachments: [Ordinance](#)
[RCW 66.44.270](#)

- 4.G [16-0607](#) Approval of Ordinance Amending High-Density Corridor-1 Zoning District Text

Attachments: [Ordinance](#)
[Map](#)

- 4.H [16-0642](#) Approval of Ordinance amending Olympia Municipal Code (OMC) Chapter 9.40 Relating to Offenses Against Property by Adopting by Reference Vehicle Prowling in the Second Degree Pursuant to RCW 9A.52.100, Theft Third Degree Pursuant to RCW 9A.56.050 and Possessing Stolen Property Third Degree Pursuant to RCW 9A.56.170

Attachments: [Ordinance](#)
[RCW 9A.52.100](#)
[RCW 9A.56.050](#)

[RCW 9A.56.170](#)

- 4.I [16-0644](#) Approval of Ordinance Amending Olympia Municipal Code (OMC) Chapter 9.08 Relating to Obstructing a Public Servant or Officer and Making a False or Misleading Statement to a Public Servant
Attachments: [Ordinance](#)
- 4.J [16-0645](#) Approval of Ordinance Amending Olympia Municipal Code (OMC) Chapter 9.24 Relating to Crimes Against Public Decency by Adopting the Crime of Indecent Exposure Pursuant to RCW 9.88.010
Attachments: [Ordinance](#)
[RCW 9A.88.010](#)

5. PUBLIC HEARING - None**6. OTHER BUSINESS**

- 6.A [16-0614](#) Approval of 2016 Neighborhood Matching Grant Allocation
Attachments: [Neighborhood Match Grant Project Descriptions](#)
[2016 Neighborhood Match Grants - Recommendations for Funding](#)
- 6.B [16-0627](#) Discussion of Administrative Costs and Issues Related to the Opportunity for Olympia Income Tax Initiative
Attachments: [Opportunity for Olympia Initiative Petition](#)

7. CONTINUED PUBLIC COMMUNICATION

(If needed for those who signed up earlier and did not get an opportunity to speak during the allotted 30 minutes)

8. REPORTS AND REFERRALS**8.A COUNCIL INTERGOVERNMENTAL/COMMITTEE REPORTS AND REFERRALS****8.B CITY MANAGER'S REPORT AND REFERRALS****9. EXECUTIVE SESSION**

- 9.A [16-0628](#) Executive Session Pursuant to RCW 42.30.110(1)(b) and RCW 42.30.110 (1)(c) - Real Estate Matter

9. ADJOURNMENT

The City of Olympia is committed to the non-discriminatory treatment of all persons in employment and the delivery of services and resources. If you require accommodation for your attendance at the City Council meeting, please contact the Council's Executive Assistant at 360.753.8244 at least 48 hours in advance of the meeting. For hearing impaired, please contact us by dialing the Washington State Relay

Service at 7-1-1 or 1.800.833.6384.



City Council

Special Recognition - Walker John and Ron Thomas, recipients of Futurewise's Annual Livable Communities Award on March 16, 2016

Agenda Date: 5/17/2016
Agenda Item Number: 2.A
File Number: 16-0506

Type: recognition **Version:** 1 **Status:** Recognition

Title

Special Recognition - Walker John and Ron Thomas, recipients of Futurewise's Annual Livable Communities Award on March 16, 2016

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Recognize Walker John and Ron Thomas, who received Futurewise's Annual Livable Communities Award on March 16, 2016.

Report

Issue:

Whether to recognize Walker John and Ron Thomas for their 2016 Futurewise Award for "Excellence in Creating Livable Communities - Smart Growth and Transportation."

Staff Contact:

Keith Stahley, Director Community Planning and Development Department 360.753.8227.

Presenter(s):

Keith Stahely, Director Community Planning and Development Director
Walker John, Urban Olympia, LLC
Ron Thomas, Thomas Architecture Studio

Background and Analysis:

Futurewise is a Seattle-based environmental organization dedicated to helping to create or protect great communities, transportation for all, farms and forests and water, fish and wildlife habitat.

Mr. John and Mr. Thomas were nominated for and received the award for their redevelopment work in downtown Olympia. They have teamed on a number of projects that, "have demonstrated a phenomenal vision for a revitalized downtown Olympia in there adaptive reuse of former office buildings into walkable, beautiful, mixed-use living destinations." Representative projects include the

Type: recognition **Version:** 1 **Status:** Recognition

Franklin Lofts and Thurston First Bank Building, 321 Lofts, the Cunningham Building and Campus Lofts. Each of these projects has taken an underused building or space and turned it into a contributing part of Olympia's dynamic downtown fabric.

Financial Impact:

None.

Attachments:

None.



City Council

Special Recognition - Bicycle Commuter Month Proclamation

Agenda Date: 5/17/2016
Agenda Item Number: 2.B
File Number: 16-0469

Type: recognition **Version:** 1 **Status:** Recognition

Title

Special Recognition - Bicycle Commuter Month Proclamation

Recommended Action

Committee Recommendation:

Not referred to a committee

City Manager Recommendation:

Move to proclaim May as Bicycle Commuter Month

Report

Issue:

Whether to proclaim May as Bicycle Commuter Month

Staff Contact:

Michelle Swanson, AICP, Senior Program Specialist, Public Works | Transportation, 360.753.8575.

Presenter(s):

Duncan Green, Intercity Transit, Bicycle Commuter Contest Coordinator

Background and Analysis:

The 29th Annual Thurston County Bicycle Commuter Contest happens in May. Duncan Green from Intercity Transit, which runs the contest, will be on hand to receive the proclamation.

Last year, over 1,000 people in Thurston County took part in the contest. They biked a total of 106,998 miles to places like stores, work, or school. This prevented about 55 tons of greenhouse gases from entering the atmosphere.

Among those people were 30 City employees, who rode a total of 2,210 miles and prevented about 1,720 pounds of greenhouse gas emissions.

This year, the City is building a Bike Corridor pilot project, a new type of bicycle infrastructure that is

designed to be inviting to a wide range of people. The Bike Corridor pilot project connects the eastside neighborhood to downtown, from Lions Park to 7th & Cherry right now, with the last section leading to Sylvester Park due to open this summer. Staff worked hard to ensure as much of the Corridor as possible would be open in time for the Bicycle Commuter Contest. We are hearing a lot of positive feedback on the project.

The Bike Corridor pilot project is in addition to the 32 miles of bicycle lanes and ten miles of urban trails within City limits. Public input gathered during the update of the *Olympia Comprehensive Plan* indicated that building a more bicycle-friendly community is a high priority in this community. City infrastructure investments and events like this contest move us in the right direction.

Attachments:

Proclamation

PROCLAMATION

WHEREAS, transportation accounts for about a third of the energy use in Washington State, and about half of CO2 emissions from fossil fuel; and

WHEREAS, bicycling is one of the cleanest and most energy-efficient forms of transportation; and

WHEREAS, bicycling is a mode of transportation well suited to small cities like Olympia, where many of our trips are short; and

WHEREAS, bicycle commuting can help reduce congestion and offset costly transportation system expansion; and

WHEREAS, bicycle commuting makes people healthier, more productive, and reduces chronic diseases through physical activity, and

WHEREAS, the City of Olympia has an extensive bicycle network which includes a Bike Corridor, 32 miles of bicycle lanes and 10 miles of the regional trail system within City limits, and

WHEREAS, the City of Olympia continues to expand the bicycle network, and

WHEREAS, Intercity Transit, with many sponsors including the Capital Bicycling Club and 50 local and regional businesses, is hosting the 29th Annual Bicycle Commuter Contest during the month of May 2016.

NOW, THEREFORE, BE IT RESOLVED that in recognition of the 46th Earth Day and the 59th National Bike Month, the Olympia City Council hereby proclaims the month of May 2016 as

“BICYCLE COMMUTER MONTH”

in the City of Olympia and encourages all citizens to ride their bikes to work, school and on their errands during the month of May, and throughout the year.

SIGNED IN THE CITY OF OLYMPIA, WASHINGTON THIS 17th DAY OF May, 2016.
OLYMPIA CITY COUNCIL

Cheryl Selby
Mayor



City Hall
601 4th Avenue E.
Olympia, WA 98501
360-753-8244

City Council

Approval of May 10, 2016 City Council Meeting Minutes

Agenda Date: 5/17/2016
Agenda Item Number: 4.A
File Number: 16-0636

Type: minutes **Version:** 1 **Status:** Consent Calendar

Title

Approval of May 10, 2016 City Council Meeting Minutes



Meeting Minutes - Draft

City Council

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8244

Tuesday, May 10, 2016

7:00 PM

Council Chambers

1. ROLL CALL

Present: 5 - Mayor Cheryl Selby, Mayor Pro Tem Nathaniel Jones, Councilmember Clark Gilman, Councilmember Julie Hankins and Councilmember Jeannine Roe

Excused: 2 - Councilmember Jessica Bateman and Councilmember Jim Cooper

1.A ANNOUNCEMENTS

1.B APPROVAL OF AGENDA

The agenda was approved.

2. SPECIAL RECOGNITION

2.A [16-0583](#) Special Recognition - Historic Preservation Month

Mayor Selby read a proclamation in honor of Preservation Month. Olympia Heritage Commission Chair Holly Davies discussed the Preservation Month theme of Labor. She also highlighted several homes and their owners who have been recognized for their excellence in historic preservation.

The recognition was received.

3. PUBLIC COMMUNICATION

The following person spoke: Jim Reeves

COUNCIL RESPONSE TO PUBLIC COMMUNICATION (Optional)

4. CONSENT CALENDAR

4.A [16-0609](#) Approval of May 3, 2016 Study Session Meeting Minutes

The minutes were adopted.

4.B [16-0610](#) Approval of May 3, 2016 City Council Meeting Minutes

The minutes were adopted.

4.C [16-0612](#) Bills and Payroll Certification

Payroll check numbers 88624 through 88846 and Direct Deposit transmissions: Total: \$2,079,622.42; Claim check numbers 3672431 through 3673201: Total: \$4,176,525.08.

The decision was adopted.

4.D [16-0509](#) Approval of Bid Award for the 2016 Pavement Preservation Project

The contract was adopted.

4.E [16-0584](#) Approval of Interlocal Agreement with Thurston County for Specialized Recreation Services

The contract was adopted.

4.F [16-0585](#) Approval of Interlocal Agreement with the Port of Olympia Regarding Port Stormwater Pipes Transition

The contract was adopted.

4. SECOND READINGS

4.G [16-0572](#) Approval of Ordinance Authorizing up to \$10,000,000 of General Obligation Bonds for Park Acquisition and Authorizing the Issuance of Bond Anticipation Notes (BAN) Pending the Issuance of the Bonds

The ordinance was adopted on second reading.

Approval of the Consent Agenda

Councilmember Hankins moved, seconded by Councilmember Gilman, to adopt the Consent Calendar. The motion carried by the following vote:

Aye: 5 - Mayor Selby, Mayor Pro Tem Jones, Councilmember Gilman, Councilmember Hankins and Councilmember Roe

Excused: 2 - Councilmember Bateman and Councilmember Cooper

4. FIRST READINGS - None

5. PUBLIC HEARING

5.A [16-0468](#) Public Hearing on Proposed Amendments to the Community Development Block Grant (CDBG) Program Year 2015 Action Plan

Community Development Block Grant (CDBG) Program Manager Anna Schlecht reviewed proposed amendments to the current CDBG Program Year. She noted the public hearing is part of the 30 day public comment period on the proposed

amendments.

Mayor Selby opened public comment at 7:16 p.m. The following people spoke: Lisa Smith, Lisa David and Carrie Ziegler. The Mayor closed public comment at 7:27 p.m.

The public hearing was completed.

6. OTHER BUSINESS

6.A [16-0470](#) Briefing on Low Impact Development (LID) Code Revisions

Planning and Engineering Manager Eric Christensen and Senior Planner Nicole Floyd briefed the Council on proposed Low Impact Development (LID) code revisions. He noted the proposed revisions were drafted by staff, reviewed by the Utility Advisory Committee (UAC) and the Planning Commission. The public will have six weeks to review and comment on the proposed revisions before the public hearing occurring on June 21.

Councilmembers asked clarifying questions.

The report was received.

6.B [16-0590](#) Direction on the Downtown Strategy Guiding Framework and Views for Analysis

Senior Planner Amy Buckler and Downtown Strategy Consultant John Owen of MAKERS presented highlights from the Downtown Market Analysis. Ms. Buckler also shared recommended viewsheds for analysis.

Councilmembers asked clarifying questions.

The discussion was completed. Councilmembers agreed to move forward with the guiding framework for the Downtown Strategy and viewsheds recommended for further analysis.

7. CONTINUED PUBLIC COMMUNICATION

8. REPORTS AND REFERRALS

8.A COUNCIL INTERGOVERNMENTAL/COMMITTEE REPORTS AND REFERRALS

Councilmembers reported on meeting and events attended.

8.B CITY MANAGER'S REPORT AND REFERRALS

City Manager Steve Hall reported between 2014 - 2016, City facilities have reduced natural gas use by 43% and electricity use by 14% . He also reported that 10 trees will be replaced at the Lee Creighton Center in the fall.

9. ADJOURNMENT

Mayor Selby adjourned the meeting at 9:04 p.m.



City Council

Approval of Community Development Block Grant (CDBG) Program Year 2015 Action Plan Amendments

Agenda Date: 5/17/2016
Agenda Item Number: 4.B
File Number: 16-0630

Type: decision **Version:** 1 **Status:** Consent Calendar

Title

Approval of Community Development Block Grant (CDBG) Program Year 2015 Action Plan Amendments

Recommended Action

Committee Recommendation:

Move to approve the proposed amendments to the Community Development Block Grant (CDBG) Program Year 2015 Action Plan.

City Manager Recommendation:

Move to approve the proposed amendments to the Community Development Block Grant (CDBG) Program Year 2015 Action Plan.

Report

Issue:

Whether to approve the proposed amendments to the City's Program Year 2015 Action Plan (Sept. 2015 - Aug. 2016).

Staff Contacts:

M. Anna Schlecht, CDBG Program Manager, Community Planning & Development 360.753.8183
Leonard Bauer, Deputy Director, Community Planning & Development, 360.753.8206

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

CDBG Program Year 2015 Amendment:

The City Council adopted the CDBG Program Year 2015 (PY15) Action Plan in July 2015. Since that time, additional project opportunities have become available that can be funded within PY2015. In addition, the City must increase its expenditures in PY 2015 to meet federal regulations requiring the timely expenditure of funds to ensure that tax monies are not "banked" indefinitely for the future (see

further explanation of CDBG regulations below). Due to receipt of greater-than-expected repayments of past loans and other unexpended projects, **the City's CDBG program must expend at least \$510,513 by June 30, 2016 to meet this requirement.**

These two factors result in the recommendation to consider amending the existing PY15 Action Plan as shown in the attached Matrix of Proposed CDBG Amendments.

Two of the recommended amendments would be for additional funding to existing CDBG activities:

- **\$130,650 repayment of the City's Section 108 Loan**, which funded the Downtown Improvement Project (Alley Lighting and ADA Sidewalk Improvements). This amendment would make an additional \$65,650 payment, and also corrects the current payment to \$65,000, for a total of \$130,650 in repayments in PY15.
- **Crime Prevention Through Environmental Design (CPTED) program**, which funds small projects to improve key conditions downtown to increase safety. This amendment would add \$60,000 toward an alley improvement with a garbage compactor shared by multiple buildings, increased lighting and potentially a security camera.

The other three recommended PY15 amendments would address the City's primary strategic goal of economic development, as stated in its five-year Consolidated Plan:

- **Property Acquisition:** providing \$150,000 toward purchase of the former Griswold's site to remove blight;
- **Micro Business Training:** providing up to \$45,000 to Enterprise for Equity for training small business owners on how to sustain and grow their businesses.
- **YMCA Feasibility Study:** Contribute \$12,000 toward a market feasibility study of an improvement or expansion of the Downtown YMCA, which would provide for eventual facilities or services to low-moderate income individuals.

To provide for these projects, the supplemental funding in the PY15 Action Plan for the Grow Olympia Fund would be eliminated. No loan discussions have led to a potential loan that would be timely enough to meet the City's spend down requirements in PY15. The \$1 million Grow Olympia Fund established through the National Development Council would remain available to fund small business loans when ready.

Additionally, CDBG program administration costs and the HUD-allowed, per-project activity delivery costs would be increased correspondingly to provide for these amendments to be carried out in PY15.

Background on CDBG Regulatory Guidelines:

The City receives CDBG funding each year because it is an 'entitlement' jurisdiction. For PY15, the

City's grant is \$338,265. In addition, the City receives 'program income' - primarily from repayment of past loans for residential property improvements. In PY15, program income to date is \$227,748 - significantly greater than the \$120,000 projected in the adopted PY15 Action Plan.

Federal regulations limit flexibility in CDBG project spending in the following ways:

1. CDBG funds must be allocated for clearly identified, geographically specific projects (i.e. the acquisition of the Griswold's property) or for defined programs with clear guidelines for activities (i.e. the CPTED Program).
2. Federal regulations require the timely expenditure of funds to ensure that tax monies are not "banked" indefinitely for the future. By June 30 of each year, the City must spend CDBG funds down to 1.5 times its last CDBG federal grant. In PY15, that spend-down target is \$503,144. Due to greater-than-expected repayments of past loans and other unexpended projects, **the City's CDBG program must expend at least \$510,513 by June 30, 2016 to meet this requirement.**
3. Over each three-year period, at least 70% of the City's CDBG expenditures must provide benefit to low-to-moderate income people. The recommended amendments would ensure this requirement is met for the PY13-PY15 period.
4. Up to 15% of the City's CDBG expenditures each program year may be provided to direct social services. The recommended amendments would ensure this requirement is met.

Timeline and Process to Amend the PY 2015 Action Plan:

The City notified the public about the opportunity to comment on these proposed amendments during a 30-day public comment period running from April 15 to May 15, 2016, which featured a public hearing on May 10, 2016. Copies of the proposed amendments to the PY 2015 CDBG Action Plan were made available online at www.olympiawa.gov <<http://www.olympiawa.gov>> . Paper copies were made available at Olympia City Hall, or the Olympia Timberland Library. .

As of the publishing of this staff report, only one public comment was received from Homes First (Attached). All other public comments will be presented to Council in paper format on their Council desks at the May 17 City Council meeting.

Staff recommend that the City Council make a final decision of to approve the proposed PY 2015 CDBG Action Plan amendments.

Neighborhood/Community Interests (if known):

There is wide public interest in how CDBG funds are allocated. The City published a public notice on the proposed amendments, which have been made available for review on the City's website, in paper copies available a 30-day public comment period, that ran from .

Options:

1. Approve the proposed amendments to the Community Development Block Grant (CDBG) Program Year 2015 Action Plan.

2. Do not approve the proposed amendments to the Community Development Block Grant (CDBG) Program Year 2015 Action Plan. Note this option would likely result in the City's CDBG Program not meeting federal spend-down requirements.

Financial Impact:

The recommended amendments will ensure the City's CDBG program remains compliant with federal regulations to expend at least \$510,513 by June 30, 2016. Approximately \$500,000 would remain in the City's CDBG fund for additional expenditures. Unexpended funds in PY15 would carry over to PY16.

Attachments:

Matrix of Proposed PY15 Amendments

Current PY 2015 CDBG Action Plan

Public Comments on the Proposed PY 2015 Amendments

Matrix of Proposed PY 2015 CDBG Amendment Amounts & Projected Expenditures

Activity	Eligible for Low-Moderate Income (LMI) Benefit Ratio	Current PY2015 Funding Level	PROPOSED PY2015 Amendment Funding Level
Debt-Service of Section 108 Loan for Downtown Improvements Project	Excluded from ratio	\$64,000	\$130,650 (Additional prepayment of PY 2016 payment - \$65,000 plus interest)
Downtown Ambassador Program	Yes	\$51,270 – Contract \$4,127 - 7% Activity Delivery	\$51,270 - Contract \$5,127 – 10% Activity Delivery
Crime Prevention Through Environmental Design (CPTED) Safety Program	Yes - Conditionally	\$27,500	Up to \$60,000 – Activity Up to \$6,000 – 10% Activity Delivery
Grow Olympia Fund-Business Loans*	Yes	\$219,714	0
YMCA Market Feasibility Study	Yes - Conditionally	0	Up to \$12,000
Property Acquisition	No, Slum & Blight Removal provides Area Benefit	0	\$150,000 (Griswold's property) Up to \$15,000 – 10% Activity Delivery
Micro Business Training Program	Yes	0	Up to \$45,000 Up to \$4,500 – 10% Activity Delivery
Program Administration	Excluded from ratio	\$91,654	\$113,053
TOTAL		\$458,265 Current	\$592,600 Proposed

* Supplemental funding to primary \$1 million Grow Olympia Fund, which remains in place and available to provide small business loans.

TABLE 1: PROPOSED PY 2015 AWARDS BY RECIPIENT AND PROJECT

Recipient	Project/ Activity	Outcomes	Strategic Goal(s) Met	HUD CDBG Objective(s) Met	Proposed PY 2015 Award
City of Olympia	Debt Service-Section 108 Downtown Improvements Project	Partial repayment of Section 108 loan, which funds the installation of lighting in approximately 13 alleys and 1 key sidewalk accessibility project	Public Facilities Improvements	15% - Low/Mod Area (LMA) 85% - Low/Mod Limited Cientele (LMC)	\$ 64,000
Capital Recovery Center	Downtown Ambassador Program	Citizen contacts with up to 150 homeless and mentally ill people	Homeless Continuum of Care	Low and moderate income benefit (LMI)	\$55,397**
Assorted Downtown Buildings	Safety & Façade Improvements Pilot Project (CPTED)*	Economic Development	Economic Development	Rehab: Publically or Privately owned commercial/industrial in a predominantly low/moderate-income residential area (LMA)	\$27,500**
City of Olympia	Grow Olympia Fund – Business Loans	Economic Development	Economic Development	Low and moderate income job creation (LMJ)	\$219,714**
City of Olympia	Planning & Administrative Costs - 15% of total funds	Administration of a compliant program	CDBG Program Administration	N/A	\$91,654
Total:					\$458,265
* <i>Crime Prevention Throught Environmental Design (CPTED)</i>					
** <i>Includes estimated 10% Activity Delivery Costs (ADC) necessary for managing these programs</i>					



April 18, 2016

City of Olympia , City Council
PO Box 1967
Olympia, WA 98507

RE: Proposed amendments to the Community Development Block Grant 2015

Dear Mayor Selby and Council Members,

Homes First! creates safe, healthy, and affordable rental homes for those who need them most. We believe everyone needs to be in a home to build a successful life and a successful community. We are concerned to see that you have not made creating more affordable housing one of your priorities with your excess of 2015 Community Development Block Grant (CDBG) Funds.

Traditionally in our region, at least a portion of all CDBG funds have been used to ensure those who are most challenged to find and maintain housing, have additional opportunities to sustain a home in our neighborhoods. In fact, the City of Olympia has contributed to the funding of many of those homes over the years. At a time when we are in the middle of a housing crisis, we urge you to consider redirecting some of your additional, unplanned CDBG funds to housing needs. Although we understand the need for economic development, we would remind you of those you represent who, without safe, healthy, and affordable homes, are unable to participate in the economic success of our city.

- **Success begins at home.** People who live in a home do better at work and are more engaged with the world around them.
- **Education begins at home.** Children in stable homes learn and achieve more in school. A home helps level the playing field. Children deserve a chance to succeed in school and in life, which all begins with their family being able to afford a decent place to live.
- **Good Health begins at home.** Healthy habits are more accessible when you live in a stable, affordable home. Children get the healthy start they need.
- **Public Safety begins at home.** When people have a home they can count on, a stronger sense of community keeps streets, neighborhoods, and communities safer.
- **A Strong Economy begins at home.** At all income levels, people living in a home can afford more. Local job growth and a strong economy start at home. It should be possible for working people to afford housing and still have enough money for the basics like groceries, gas, and childcare.

It's better for society, the environment, and families if people can afford to live close to where they work. You need to start at home to realize the promise of a vibrant community. Please consider addressing our housing crisis with your additional CDBG funds.

Your partner in housing,

Trudy Soucoup, Executive Director

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of
Directors**

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Proud Members of:





City Council

Approval of Multi-family Housing Limited Property Tax Exemption Agreement for 321 Legion Way

Agenda Date: 5/17/2016
Agenda Item Number: 4.C
File Number: 16-0615

Type: contract **Version:** 1 **Status:** Consent Calendar

Title

Approval of Multi-family Housing Limited Property Tax Exemption Agreement for 321 Legion Way

Recommended Action

Not referred to a committee.

City Manager Recommendation:

Move to approve the Multi-family Housing Limited Property Tax Exemption Agreement and authorize the City Manager to execute the agreement with Urban Olympia, LLC (represented by Mr. Walker John).

Body

Issue:

Whether to enter a Multi-family Housing Limited Property Tax Exemption Agreement for 36 new residential apartments located at 321 Legion Way.

Staff Contact:

Leonard Bauer, Deputy Director Community Planning & Development, 360.753.8206

Presenter(s): None - Consent Calendar Item.

Background and Analysis:

Mixed Use Project.

Urban Olympia, LLC is constructing a 3-story residential building on the site of a former surface parking lot on the southwest corner of Legion Way and Adams Street SE. The project consists of 36 market-rate residential apartments in a building of approximately 27,000 sq. ft. The land use, design and environmental reviews were completed and approved by the Site Plan Review Committee on August 11, 2015. The building is currently under construction. Urban Olympia, LLC seeks the eight-year tax exemption for the 36 market rate units.

Tax Exemption Code.

State law authorizes the City of Olympia to adopt a multi-family housing tax exemption program

(RCW 84.14). The Multi-Family Tax Exemption provisions contained in Olympia Municipal Code Chapter 5.86 were first passed in August 1997 (Ordinance 5713) with a 10-year property tax exemption for downtown multi-family projects. The ordinance was amended in December 1997 (Ordinance 5734) to add new residential target areas. The State Legislature revised the 10-year exemption into an 8-year market rate or 12-year affordable housing tax exemption. On January 26, 2009, the City Council adopted the 8- and 12-year provisions along with refinements to the residential target areas (Ordinance 6618).

The primary purpose for the law is to provide added incentives to promote construction of housing in key target areas defined within the ordinance. The property tax exemption applies to only the increased value of building housing (new construction). The exemption does not apply to the land or costs associated with any non-housing improvements. The 36 apartments meet all the requirements to be eligible for a tax exemption, including:

- The housing is located in the downtown which is one of three designated residential target areas;
- 50 percent of the space or more is for permanent residential occupancy;
- More than 4 new housing units are created;
- The construction/rehabilitation will be completed within three years of approval of the application;
- The property was vacant at least 12 months prior to application; and
- No tenant displacement occurred.

Neighborhood/Community Interests (if known):

The project is within the Downtown Neighborhood Association and Olympia Downtown Association areas, and is of general interest city-wide.

Options:

1. Move to approve the Multi-family Housing Limited Property Tax Exemption Agreement and authorize the City Manager to execute the agreement with Urban Olympia, LLC.
2. Remove this item from the Consent Calendar and provide further direction to staff.

Financial Impact:

Property taxes will continue to be paid on the underlying property. The value of the residential improvements (estimated to be \$5,653,562) will be exempt from ad valorem tax for eight years.

**MULTI-FAMILY HOUSING
LIMITED PROPERTY TAX EXEMPTION AGREEMENT**

THIS AGREEMENT is entered into this ___ day of _____, 20__ by and between Urban Olympia LLC, a limited liability corporation, hereinafter referred to as the "Applicant" and the City of Olympia, Washington, a municipal corporation hereinafter referred to as the "City".

WITNESSETH:

WHEREAS, the City has an interest in encouraging new construction or rehabilitation of multi-family housing in Residential Target Areas in order to reduce development pressure on single-family residential neighborhoods, to increase and improve housing opportunities, and to encourage development densities supportive of transit use; and

WHEREAS, the City has, pursuant to the authority granted to it by Chapter 84.14 RCW, designated various Residential Target Areas for the provision of a limited property tax exemption for new multi-family residential housing; and

WHEREAS, the City has, through Olympia Municipal Code Chapter 5.86, enacted a program whereby property owners may qualify for a Final Certificate of Tax Exemption which certifies to the Thurston County Assessor-Treasurer that the owner is eligible to receive a limited property tax exemption; and

WHEREAS, the Applicant is interested in receiving a limited property tax exemption for thirty-six (36) new multi-family residential housing units constructed in the Downtown Residential Target Area; and

WHEREAS, the Applicant has submitted to the City preliminary site plans and floor plans for new multi-family residential housing to be constructed on property situated approximately at 321 Legion Way, Olympia, WA 98507 and described more specifically as follows:

County Assessor's Parcel Number: 78503600300

Legal Description:

Parcel B of Boundary Line Adjustment No. 14-0143-OL, as recorded under Auditor's File No. 4423537, Thurston County Records, situated in the SE ¼ of the SW ¼ of Section 14, Township 18 North, Range 2 West, W.M., City of Olympia, Thurston County, Washington.

Street Address: 321 Legion Way, Olympia, WA

Herein referred to as the "Site"; and

WHEREAS, the Director of the Department of Community Planning and Development has determined that the improvements will, if completed and operated as proposed, satisfy the requirements for a Final Certificate of Tax Exemption; and

WHEREAS, the Olympia Municipal Code requires an applicant for a limited property tax exemption to enter into a contract with the City, in which the applicant agrees to implement the proposed project on terms satisfactory to the Olympia City Council so as to maintain the improvements' eligibility for the limited property tax exemption;

NOW, THEREFORE, in exchange for the City's consideration of the applicant's request for a Final Certificate of Tax Exemption, the Applicant and the City mutually agree as follows:

1. Each of the recitals set forth above are by this reference incorporated into this Agreement as though fully set forth herein.
2. The City agrees to issue the Applicant a Conditional Certificate of Acceptance of Tax Exemption.
3. The Applicant shall construct on the site multi-family residential housing substantially as described in the most recent site plans, floor plans, and elevations on file with the City as of the date of City approval of this Agreement. In no event shall such construction provide fewer than four new multi-family permanent residential units nor shall it provide fewer than half of its total residential units as permanent housing.
4. The Applicant shall complete construction of the agreed upon improvements within three (3) years from the date the City issues the Conditional Certificate of Acceptance of Tax Exemption or within any extension thereof granted by the City.
5. The Applicant shall, upon completion of the improvements and upon issuance by the City of a temporary or permanent Certificate of Occupancy, file with the City's Community Planning and Development Department the following:
 - A. A statement of expenditures made with respect to each multi-family housing unit and the total expenditures made with respect to the entire property;
 - B. A description of the completed work and a statement of qualification for the exemption; and
 - C. A statement that the work was completed within the required three-year period or any authorized extension.
6. Upon the Applicant's successful completion of the improvements in accordance with the terms of this Agreement and on the applicant's filing of the materials described in Paragraph 5 above, and upon the City's approval of a Final Certificate of Tax

Exemption, the City shall file the Final Certificate with the Thurston County Assessor-Treasurer.

7. The Applicant shall, within thirty days following the first anniversary of the City's filing of the Final Certificate of Tax Exemption and each year thereafter for a period of eight (8) years, file a notarized declaration with the City's Community Planning and Development Department indicating the following:
 - A. A statement of occupancy and vacancy of the multi-family units during the previous year;
 - B. A certification that the property continues to be in compliance with this Agreement; and
 - C. A description of any subsequent improvements or changes to the property.
8. If, during the term of any Final Certificate of Tax Exemption, the Applicant converts to another use any of the new multi-family residential housing units constructed under this Agreement, the Applicant shall notify the Thurston County Assessor-Treasurer and the City's Department of Community Planning and Development within sixty (60) days of such change in use. The City may, in its sole discretion, revoke and cancel the Final Certificate of Tax Exemption effective on the date of the Applicant's conversion of any of the multi-family residential housing units to another use.
9. The applicant shall notify the City promptly of any transfer of the Applicant's ownership interest in the Site or in the improvements made to the Site under this Agreement.
10. In addition to any other powers reserved to the City by law the City may, in its sole discretion, cancel the Final Certificate of Tax Exemption should the Applicant, its successors and assigns, fail to comply with any of the terms and conditions of this Agreement.
11. No modifications of the Agreement shall be made unless mutually agreed upon by the parties in writing.
12. The venue for any dispute related to this Agreement shall be Thurston County, Washington.
13. In the event that any term or clause of this Agreement conflicts with applicable law, such conflict shall not affect other terms of this Agreement which can be given effect without the conflicting terms or clause, and to this end, the terms of the Agreement are declared to be severable.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF OLYMPIA

PROPERTY OWNER(S)

By: _____
Steven R. Hall, City Manager

By: _____
Print Name: _____
Authorized Representative

By: _____
Print Name: _____

APPROVED AS TO FORM:

By: Darren Nease DCA
City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

On this ___ day of _____, 20___, before me, the undersigned a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Steven R. Hall, to me known to be City Manager of the City of Olympia, a municipal corporation, who executed the foregoing instrument and acknowledged the said instrument to be his free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned and on oath stated that he is authorized to execute the said instrument

WITNESS my hand and official seal the day and year first above written.

Signature
Print Name: _____
NOTARY PUBLIC in and for the State of
Washington, residing at _____
My commission expires _____

STATE OF WASHINGTON)
) ss.
 COUNTY OF THURSTON)

On this ___ day of _____, 20___, before me, the undersigned a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____ to me known to be _____ with Urban Olympia, a Washington Limited Liability Corporation, who executed the foregoing instrument and acknowledged the said instrument to be his/her/their free and voluntary act and deed of said limited liability corporation, for the uses and purposes therein mentioned and on oath stated that he/she/they is/are authorized to execute the said instrument on behalf of Urban Olympia, LLC.

WITNESS my hand and official seal the day and year first above written.

 Signature
 Print Name: _____
 NOTARY PUBLIC in and for the State of
 Washington, residing at _____
 My commission expires _____



City Council

Approval of Multi-family Housing Limited Property Tax Exemption Agreement for 512 12th Avenue SE

Agenda Date: 5/17/2016
Agenda Item Number: 4.D
File Number: 16-0616

Type: contract **Version:** 1 **Status:** Consent Calendar

Title

Approval of Multi-family Housing Limited Property Tax Exemption Agreement for 512 12th Avenue SE

Recommended Action

Not referred to a committee.

City Manager Recommendation:

Move to approve the Multi-family Housing Limited Property Tax Exemption Agreement and authorize the City Manager to execute the agreement with 3rd Gen Investment Group, LLC (represented by Mr. Walker John).

Body

Issue:

Whether to enter a Multi-family Housing Limited Property Tax Exemption Agreement for 43 new residential units located at 512 12th Avenue SE.

Staff Contact:

Leonard Bauer, Deputy Director Community Planning & Development, 360.753.8206

Presenter(s): None - Consent Calendar Item.

Background and Analysis:

Project Description.

3rd Gen Investment Group, LLC is constructing a new building containing seven new townhome units, and rehabilitating a former office building with 36 apartment units, on a site on the southeast corner of 12th and Jefferson Avenues SE. The project consists of a total of 43 market-rate residential units and approximately 50,000 sq. ft. of floor area. The land use, design and environmental reviews were completed and approved by the Site Plan Review Committee on August 5, 2015. The project is currently under construction. 3rd Gen Investment Group, LLC seeks the eight-year tax exemption for the 43 market rate units.

Tax Exemption Code.

State law authorizes the City of Olympia to adopt a multi-family housing tax exemption program (RCW 84.14). The Multi-Family Tax Exemption provisions contained in Olympia Municipal Code Chapter 5.86 were first passed in August 1997 (Ordinance 5713) with a 10-year property tax exemption for downtown multi-family projects. The ordinance was amended in December 1997 (Ordinance 5734) to add new residential target areas. The State Legislature revised the 10-year exemption into an 8-year market rate or 12-year affordable housing tax exemption. On January 26, 2009, the City Council adopted the 8- and 12-year provisions along with refinements to the residential target areas (Ordinance 6618).

The primary purpose for the law is to provide added incentives to promote construction of housing in key target areas defined within the ordinance. The property tax exemption applies to only the increased value of building housing (new construction). The exemption does not apply to the land or costs associated with any non-housing improvements. The 43 residential units meet all the requirements to be eligible for a tax exemption, including:

- The housing is located in the downtown which is one of three designated residential target areas;
- 50 percent of the space or more is for permanent residential occupancy;
- More than 4 new housing units are created;
- The construction/rehabilitation will be completed within three years of approval of the application;
- The property was vacant at least 12 months prior to application; and
- No tenant displacement occurred.

Neighborhood/Community Interests:

The project is within the Downtown Neighborhood Association, and is of general interest city-wide.

Options:

1. Move to approve the Multi-family Housing Limited Property Tax Exemption Agreement and authorize the City Manager to execute the agreement with 3rd Gen Investment Group, LLC.
2. Remove this item from the Consent Calendar and provide further direction to staff.

Financial Impact:

Property taxes will continue to be paid on the underlying property. The value of the residential improvements (estimated to be \$5,223,572) will be exempt from ad valorem tax for eight years.

Attachment:

Multi-Family Property Tax Exemption Agreement

**MULTI-FAMILY HOUSING
LIMITED PROPERTY TAX EXEMPTION AGREEMENT**

THIS AGREEMENT is entered into this ___ day of _____, 20__ by and between 3rd Gen Investment Group, LLC, a limited liability corporation, hereinafter referred to as the "Applicant" and the City of Olympia, Washington, a municipal corporation hereinafter referred to as the "City".

WITNESSETH:

WHEREAS, the City has an interest in encouraging new construction or rehabilitation of multi-family housing in Residential Target Areas in order to reduce development pressure on single-family residential neighborhoods, to increase and improve housing opportunities, and to encourage development densities supportive of transit use; and

WHEREAS, the City has, pursuant to the authority granted to it by Chapter 84.14 RCW, designated various Residential Target Areas for the provision of a limited property tax exemption for new multi-family residential housing; and

WHEREAS, the City has, through Olympia Municipal Code Chapter 5.86, enacted a program whereby property owners may qualify for a Final Certificate of Tax Exemption which certifies to the Thurston County Assessor-Treasurer that the owner is eligible to receive a limited property tax exemption; and

WHEREAS, the Applicant is interested in receiving a limited property tax exemption for forty-three (43) new multi-family residential housing units constructed in the Downtown Residential Target Area; and

WHEREAS, the Applicant has submitted to the City preliminary site plans and floor plans for new multi-family residential housing to be constructed on property situated approximately at 512 12th Avenue SE, Olympia, WA 98507 and described more specifically as follows:

County Assessor's Parcel Number: 68800000700

Legal Description:

Lots 7, 8 and 9 of Phillips and Newell Subdivision, as recorded in Volume 11 of Plats, page 3, Thurston County records; EXCEPT the North 6 feet of Lot 8; and EXCEPT the North 6 feet of the West 5 feet of Lot 9, TOGETHER with that portion of the North-South alley lying South of the East prolongation of the North line of said Lot 7; situated in the NW ¼ of the NE ¼ of Section 23, Township 18 North, Range 2 West, W.M., City of Olympia, Thurston County, Washington.

Street Address: 512 12th Avenue SE, Olympia, WA

Herein referred to as the "Site"; and

WHEREAS, the Director of the Department of Community Planning and Development has determined that the improvements will, if completed and operated as proposed, satisfy the requirements for a Final Certificate of Tax Exemption; and

WHEREAS, the Olympia Municipal Code requires an applicant for a limited property tax exemption to enter into a contract with the City, in which the applicant agrees to implement the proposed project on terms satisfactory to the Olympia City Council so as to maintain the improvements' eligibility for the limited property tax exemption;

NOW, THEREFORE, in exchange for the City's consideration of the applicant's request for a Final Certificate of Tax Exemption, the Applicant and the City mutually agree as follows:

1. Each of the recitals set forth above are by this reference incorporated into this Agreement as though fully set forth herein.
2. The City agrees to issue the Applicant a Conditional Certificate of Acceptance of Tax Exemption.
3. The Applicant shall construct on the site multi-family residential housing substantially as described in the most recent site plans, floor plans, and elevations on file with the City as of the date of City approval of this Agreement. In no event shall such construction provide fewer than four new multi-family permanent residential units nor shall it provide fewer than half of its total residential units as permanent housing.
4. The Applicant shall complete construction of the agreed upon improvements within three (3) years from the date the City issues the Conditional Certificate of Acceptance of Tax Exemption or within any extension thereof granted by the City.
5. The Applicant shall, upon completion of the improvements and upon issuance by the City of a temporary or permanent Certificate of Occupancy, file with the City's Community Planning and Development Department the following:
 - A. A statement of expenditures made with respect to each multi-family housing unit and the total expenditures made with respect to the entire property;
 - B. A description of the completed work and a statement of qualification for the exemption; and
 - C. A statement that the work was completed within the required three-year period or any authorized extension.
6. Upon the Applicant's successful completion of the improvements in accordance with the terms of this Agreement and on the applicant's filing of the materials described in

Paragraph 5 above, and upon the City's approval of a Final Certificate of Tax Exemption, the City shall file the Final Certificate with the Thurston County Assessor-Treasurer.

7. The Applicant shall, within thirty days following the first anniversary of the City's filing of the Final Certificate of Tax Exemption and each year thereafter for a period of eight (8) years, file a notarized declaration with the City's Community Planning and Development Department indicating the following:
 - A. A statement of occupancy and vacancy of the multi-family units during the previous year;
 - B. A certification that the property continues to be in compliance with this Agreement; and
 - C. A description of any subsequent improvements or changes to the property.
8. If, during the term of any Final Certificate of Tax Exemption, the Applicant converts to another use any of the new multi-family residential housing units constructed under this Agreement, the Applicant shall notify the Thurston County Assessor-Treasurer and the City's Department of Community Planning and Development within sixty (60) days of such change in use. The City may, in its sole discretion, revoke and cancel the Final Certificate of Tax Exemption effective on the date of the Applicant's conversion of any of the multi-family residential housing units to another use.
9. The applicant shall notify the City promptly of any transfer of the Applicant's ownership interest in the Site or in the improvements made to the Site under this Agreement.
10. In addition to any other powers reserved to the City by law the City may, in its sole discretion, cancel the Final Certificate of Tax Exemption should the Applicant, its successors and assigns, fail to comply with any of the terms and conditions of this Agreement.
11. No modifications of the Agreement shall be made unless mutually agreed upon by the parties in writing.
12. The venue for any dispute related to this Agreement shall be Thurston County, Washington.
13. In the event that any term or clause of this Agreement conflicts with applicable law, such conflict shall not affect other terms of this Agreement which can be given effect without the conflicting terms or clause, and to this end, the terms of the Agreement are declared to be severable.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF OLYMPIA

PROPERTY OWNER(S)

By: _____
Steven R. Hall, City Manager

By: _____
Print Name: _____
Authorized Representative

By: _____
Print Name: _____

APPROVED AS TO FORM:

By: Darren Niehaber DCA
City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

On this ___ day of _____, 2016, before me, the undersigned a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Steven R. Hall, to me known to be City Manager of the City of Olympia, a municipal corporation, who executed the foregoing instrument and acknowledged the said instrument to be his free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned and on oath stated that he is authorized to execute the said instrument.

WITNESS my hand and official seal the day and year first above written.

Signature
Print Name: _____
NOTARY PUBLIC in and for the State of
Washington, residing at _____
My commission expires _____

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

On this ___ day of _____, 20___, before me, the undersigned a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____ to me known to be _____ with 3rd Gen Investment Group, a Washington Limited Liability Corporation, who executed the foregoing instrument and acknowledged the said instrument to be his/her/their free and voluntary act and deed of said limited liability corporation, for the uses and purposes therein mentioned and on oath stated that he/she/they is/are authorized to execute the said instrument on behalf of the 3rd Gen Investment Group, LLC.

WITNESS my hand and official seal the day and year first above written.

Signature
Print Name: _____
NOTARY PUBLIC in and for the State of
Washington, residing at _____
My commission expires _____



City Council

Approval of Ordinance Amending the Rezone Hearing Body

Agenda Date: 5/17/2016
Agenda Item Number: 4.E
File Number: 16-0606

Type: ordinance **Version:** 1 **Status:** 1st Reading-Consent

Title

Approval of Ordinance Amending Rezone Hearing Body

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to adopt the Ordinance in clarifying procedures for review of site-specific rezone applications on first reading and forward to second reading.

Report

Issue:

Whether to adopt the attached ordinance clarifying procedures for review of site-specific rezone applications and affirming that the Hearing Examiner should continue to be the hearing body to hold public hearings and makes recommendations to the City Council regarding site-specific rezone applications.

Staff Contact:

Leonard Bauer, Deputy Director, Community Planning & Development, (360) 753-8206,
lbauer@ci.olympia.wa.us <<mailto:lbauer@ci.olympia.wa.us>>

Presenter(s):

Leonard Bauer, Deputy Director, Community Planning & Development

Background and Analysis:

During the update of the Comprehensive Plan, some members of the public suggested that if the Plan were to allow for more rezone applications, the City's Development Code should be amended to provide that rezone hearings would be held by the Planning Commission instead of the Hearing Examiner. On September 23, 2013, the Commission held a public hearing regarding this proposal and, following deliberation on October 21, 2013, the Commission unanimously recommended that the City Council amend the Development Code accordingly. This proposal was placed on hold until the Council approved the updated Plan in December of 2014. On May 19, 2015, the Council referred the rezone-hearing-body issue to the Land Use and Environment Committee for review.

The Committee considered the issue on July 16, 2015. Following discussion, which included Planning Commission Chair Carole Richmond and Commissioner Roger Horn, the Committee recommended continuing the current practice and recommended that staff report back to the Committee at the end of 2016 regarding public hearings on rezone proposals held by the Hearing Examiner.

At its October 27, 2015 meeting, the City Council affirmed the Committee's recommendation and directed staff to prepare an ordinance to remove process ambiguities in the Municipal Code and clarify that the Hearing Examiner holds public hearings and makes recommendations to the City Council regarding site-specific rezone applications (See attached meeting minutes).

A detailed analysis of the legal framework and history of rezones in Olympia is included in the October 27, 2015, staff report to the City Council (Attached). Note the attached guidance from the Washington Cities Insurance Authority (WCIA), which recommends that all quasi-judicial matters, including site specific rezones, be heard by a Hearing Examiner.

Per the City Council's direction, the attached ordinance clarifies the Municipal Code in three respects:

- To the \$3,200 rezone application fee of Title 4, add "plus \$1,500 Hearing Examiner deposit" to clarify that site-specific rezone applicants are subject to reimbursing the City for Examiner costs
- Amend OMC 18.58 and 18.59 to clarify that site-specific rezone applications are forwarded to the Planning Commission for recommendation without holding a public hearing, and then to the Hearing Examiner for public hearing and recommendation to City Council.
- Amend OMC 18.82.240 to clarify that the evidence, record and arguments considered by the City Council are solely those provided at the public hearing before the Hearing Examiner, and that no new evidence may be introduced before the City Council.

Neighborhood/Community Interests:

Rezoning may be considered for any site within the City, so this issue is of interest city-wide.

Options:

1. Adopt the Ordinance clarifying procedures for review of site-specific rezone applications
2. Do not adopt the Ordinance clarifying procedures for review of site-specific rezone applications
3. Direct staff to make specific amendments to the Ordinance and bring back to City Council.
4. Refer to a Committee for further consideration.

Financial Impact:

No direct impact; Examiner's hearing costs are borne by rezone applicants. As discussed above, increases in secondary costs could result from the proposed change.

Attachments:

1. **Draft ordinance**
2. **City Council minutes 10.27.15**

3. **City Council staff report 10.27.15**
4. **Factors list**
5. **WCIA Guidance**
6. **Planning Commission minutes excerpts**

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, CLARIFYING PROCEDURES FOR REVIEW OF SITE-SPECIFIC LAND USE ZONING CHANGES; AND AMENDING CHAPTER 18.58 AND SECTIONS 18.59.050, 18.59.060, AND 18.82.240 OF THE OLYMPIA MUNICIPAL CODE

WHEREAS, during 2013, the Olympia Planning Commission (the Planning Commission) considered and on December 2014, the City Council adopted updates to the Olympia Comprehensive Plan that provide more opportunities for site-specific changes in land use zoning; and

WHEREAS, the Planning Commission received a briefing on August 19, 2013, and on September 23, 2013, held a public hearing regarding the possibility of amending the City's development code to provide that all rezone applications would be subject to review and public hearing by the Planning Commission; and

WHEREAS, following a public hearing and deliberations on October 7, 2013, the Planning Commission recommended such amendments; and

WHEREAS, following the City Council's adoption of the updated Comprehensive Plan in December 2014, the Land Use and Environment Committee considered the Planning Commission's recommendation regarding rezone applications on June 23, 2015, and instead formulated a recommendation that the current rezone review procedure be retained and the development code be clarified with regard to those procedures; and

WHEREAS, on October 27, 2015, the City Council reviewed the recommendations of the Planning Commission, the Land Use and Environment Committee, and the Washington Cities Insurance Authority on this topic and directed staff to prepare an ordinance amending the development code to clarify certain aspects of the current rezone review procedure; and

WHEREAS, this Ordinance is consistent with the direction of the City Council and with the City of Olympia Comprehensive Plan; and

WHEREAS, this Ordinance meets the goals and requirements of the Growth Management Act; and

WHEREAS, Chapters 35A.63 and 36.70 RCW and Article 11, Section 11 of the Washington State Constitution authorize and permit the City to adopt this Ordinance; and

WHEREAS, this Ordinance is supported by the staff report and materials associated with this Ordinance, along with other documents on file with the City of Olympia, including but not limited to documents of Community Planning and Development File No. 13-0125; and

WHEREAS, this Ordinance is also supported by the professional judgment and experience of the City staff who have worked on this proposal; and

WHEREAS, City staff are known to the City Council, and staff's curriculum vitae shall be part of the record in support of this Ordinance;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of OMC Chapter 18.58. Olympia Municipal Code Chapter 18.58 is hereby amended as follows:

**Chapter 18.58
REZONES AND TEXT AMENDMENTS**

18.58.000 Chapter Contents

Sections:

- 18.58.020 Authority.
- 18.58.040 Site-Specific Rezone procedures.
- 18.58.060 Collection of rezone applications.

18.58.020 Authority

The City Council may, upon its own motion, amend, supplement or change by ordinance, any of the provisions, use district boundaries or use district classifications herein established; provided, that in the case of ~~privately initiated~~ site-specific rezones, which do not require a Comprehensive Plan Amendment, the Council shall first review the recommendation of the Hearing Examiner, and that in the case of all other non-ministerial changes, including text amendments and privately initiated rezones which require a Comprehensive Plan Amendment, the Council shall first review the recommendation of the Planning Commission. Accordingly, the Department shall forward all proposed text amendments and rezone, i.e., zoning map amendment, proposals to the Planning Commission for review and recommendation, all site-specific rezone proposals to the Hearing Examiner for public hearing and recommendation, and to the City Council for consideration, review and action.

18.58.040 Site Specific Rezone procedures

In the case of ~~privately initiated~~ site-specific rezones which do not require a Comprehensive Plan Amendment, the rezone application review shall follow the procedures outlined in this Chapter, in Sections 18.82.140 through 18.82.280-18.59.050 and 18.59.055, and in Chapter 18.82, Hearing Examiner.

18.58.060 Collection of rezone applications

Site-specific rezone applications may be submitted at any time. However, for review purposes, such proposals will be collected into two (2) sets in each calendar year. Unless otherwise specifically authorized by the City Council:

- A. Proposals submitted between April 1st and September ~~31st~~ 30th shall be considered collectively and voted upon by the City Council by March 31st of the following year.
- B. Proposals submitted between October 1st and March 31st shall be considered collectively and voted upon by the City Council by September ~~31st~~ 30th of the same year.

- C. Proposals will be considered no more than twice each year.
- D. Time limits for review shall be as established in OMC 18.72.120, provided that the review period shall start on the latest submittal dates established under (A) and (B) of this section and not the date of application.

Section 2. Amendment of OMC Section 18.59.050. Section 18.59.050 of the Olympia Municipal Code is hereby amended to read as follows:

18.59.050 Decision criteria for rezone requests

~~The Department shall forward rezone, i.e., zoning map amendment, requests to the Planning Commission for review and recommendation and to the City Council for consideration for review and action. The following~~ criteria will be used to evaluate each rezone request. A zoning map amendment shall only be approved if the Council concludes that at minimum the proposal complies with subsections A through C. To be considered are whether:

- A. The rezone is consistent with either the Comprehensive Plan including the Plan's Future Land Use map as described in OMC 18.59.055 or with a concurrently approved amendment to the Plan.
- B. The rezone will maintain the public health, safety, or welfare.
- C. The rezone is consistent with other development regulations that implement the comprehensive plan.
- D. The rezone will result in a district that is compatible with adjoining zoning districts; this may include providing a transition zone between potentially incompatible designations.
- E. Public facilities and services existing and planned for the area are adequate and likely to be available to serve potential development allowed by the proposed zone.

Section 3. Amendment of OMC 18.59.060. Section 18.59.060 of the Olympia Municipal Code is hereby amended to read as follows:

18.59.060 Planning Commission and City Council review and adoption process

- A. Following one or more public hearings the Planning Commission shall forward its written recommendation regarding each Comprehensive Plan amendment, including and any text amendments or rezones, to the Council; provided that the Commission may forward any recommendation regarding a site-specific rezone to the Hearing Examiner without holding a public hearing.
- B. The Council shall review the recommendations of the Planning Commission, may hold a public hearing, and shall decide whether to adopt, modify and adopt, reject or defer to a later date, each proposed amendment, ~~including rezones.~~
- C. Each proponent shall be notified by mail of all public hearings and of the Council's final decision.

Section 4. Amendment of OMC 4.40.010. Section 4.40.010 of the Olympia Municipal Code is hereby amended to read as follows:

4.40.010 Land use application review fees

A. Commencing January 1, 2013, the following fee schedule shall be in full force and effect.

Certifications and Appealable Letters	Land Use and Planning Applications¹
Independent Confirmation of Critical Areas Report	\$520 plus any consultant costs
Wetland Report prepared by City staff	\$800 plus any consultant costs
Zoning, Occupancy Status, Flood Hazard, and other staff confirmations	\$100
Staff-Researched Letter, Shoreline Permit Exemption, Discretionary Time Extension, or Appealable Opinion ²	\$360 plus any consultant costs
Actions Independent of Development Review	
Presubmission Conference	\$240
SEPA Review (only)	\$480
Variance (staff level)	\$240
Variance and/or Reasonable Use Exception (by Examiner)	\$480 + \$1,000 Hearing Examiner deposit ³
Code and Plan Amendments	
Comprehensive Plan Amendment (post-screening without rezone)	\$240
Shoreline Program	\$3,200
Original Master Plan (Villages & Centers) (See OMC Chapter 18.05)	\$3,200 + \$ 140 per acre or part thereof + \$2,500 Hearing Examiner deposit ³
Master Plan Revision	\$1,600 + \$1,500 Hearing Examiner deposit ³
Development Agreement	\$3,200 + \$2,000 Hearing Examiner deposit if referred to examiner ³
Zoning and Development Code Maps or Text	\$3,200 <u>200 + if a site-specific rezone, a \$1,500 Hearing Examiner deposit⁵</u>
Annexations	
Notice of Intent to Annex	\$320
Petition to Annex	\$2,880

Temporary Uses

Temporary Use Permit for three or less consecutive days \$50

Temporary Uses for four or more consecutive days \$200

Subdivision Actions

Lot Consolidation \$360

Boundary Line Adjustment \$320 plus \$160 per boundary line

Preliminary Short or Large-Lot Plat \$600 + \$ 300 per lot

Final Short or Large-lot Plat \$600

Preliminary Full (ten or more lots) Plat \$ 3,600+ \$ 600 per acre, or part thereof + \$2,500
Hearing Examiner deposit⁵

Final Full (ten or more lots) Plat³ \$2,600

Binding Site Plan Any land use review fee; plus sum equivalent to platting
fee - latter reduced by 1/2 if concurrent with initial
development

Improvements deferral review by Examiner (OMC 17.44.020(E)) \$1,800+ \$2,000 Hearing Examiner deposit⁵

Land Use (Site Plan) Review³

No new structure to 5,000 square feet new gross floor area \$2,600

5,001 to 8,000 square feet of new gross floor area \$4,700

8,001 to 16,000 square feet of new gross floor area \$6,800

16,000 to 24,000 square feet of new gross floor area \$9,200
area

24,001 or more square feet of new gross floor area \$11,500

Wireless Communication Facility \$3,700, plus any consultant costs of City

Supplemental Actions

Traffic modeling or distribution by City staff No charge, except any consultant fees

Additional SEPA Review (WAC 197-11-335) No charge, except any consultant fees

Environmental Impact Statement \$3,200+ preparation at contract rate to be determined

Design Concept Review --Board Level \$900

Design Details Review-- Board Level \$900

Design Review--Staff Level	\$240
Sign (Design) Review	\$55 per sign to \$330 maximum per occupancy
Examiner Review--Project Subject to SEPA	\$1,200 + \$2,000 Hearing Examiner deposit ⁵
Wireless Communication Facility -- Subject to SEPA	\$4,600+ \$2,000 Hearing Examiner deposit ⁵ plus any consultant costs of City
Examiner Review--Project SEPA Exempt	\$900 + \$750 Hearing Examiner deposit ⁵
Wireless Communication Facility -- SEPA Exempt	\$3,700 + \$750 Hearing Examiner deposit ⁵ plus any consultant costs of City
Modification of an approved application	50% of standard fee plus any Examiner deposit
Consolidated Review (RCW 36.70B.120) ⁴	\$5,000
Impact Fee Appeal to Examiner	\$1,000 + \$500 Hearing Examiner deposit ⁵
Other Appeal to Examiner	\$1,000
Appeals to Council (only if authorized)	\$500
Request for Reconsideration or Clarification by Examiner (OMC 18.75.060 and 070)	\$240 + \$500 Hearing Examiner deposit ⁵
Historic Rehabilitation Tax Exemption	
Commercial	\$880
Residential	\$260

NOTES:

1. Additional fees may be applicable, including tree plan and engineering fees.
2. Staff certification or researched letter fees, and need for third-party consultation are at the discretion of the Planning Manager.
3. There is no extra charge for Planned Residential Development Approval.
4. The Consolidated Review Fee is an additional fee that applies to requests to merge review of preliminary development applications with construction permit applications, such as land use review and engineering permits.
5. Where Examiner deposit is required, applicant is responsible and required to pay actual Hearing Examiner costs, which may be higher or lower than the deposit amount.

Section 5. Amendment of OMC 18.82.240. Section 18.82.240 of the Olympia Municipal Code is hereby amended as follows:

18.82.240 Rezones –Recommendations

Any decision of the Hearing Examiner regarding a rezone, or a Master Plan Development, with or without conditions, shall be in the form of a recommendation to the City Council. Said recommendation shall be considered by the Council at a regular public meeting. In the alternative, the Council may consider the recommendation at a public hearing with notice given as provided by this Chapter. In either case, the scope of Council review shall be as provided in Sections 18.75.080 and 18.75.100 of this Chapter. The evidence, record and arguments before the Council shall be limited solely to those brought before the Hearing Examiner. A copy of documents will be provided to the Council by paper or on the internet. A copy of arguments will be presented to the Council or provided on the internet. No new evidence, record or arguments of any type is allowed before Council. The staff report, recordings if any, and attachments, including those on the internet, to Council will solely provide the evidence, record and argument that was presented to the City Hearing Examiner on the proposed rezone that does not require a Comprehensive Plan amendment.

Section 6. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 7. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 8. Effective Date. This Ordinance shall take effect five (5) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Darren Nienaber, DCA

CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:



Meeting Minutes

City Council

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8447

Tuesday, October 27, 2015

7:00 PM

Council Chambers

1. ROLL CALL

Present: 7 - Mayor Stephen H. Buxbaum, Mayor Pro Tem Nathaniel Jones, Councilmember Jim Cooper, Councilmember Julie Hankins, Councilmember Steve Langer, Councilmember Jeannine Roe and Councilmember Cheryl Selby

1.A ANNOUNCEMENTS

Mayor Buxbaum noted the Council met earlier in the evening to discuss the minimum wage in Olympia. He called attention to November 3 being election night and encouraged citizens to vote.

1.B APPROVAL OF AGENDA

The agenda was approved.

2. SPECIAL RECOGNITION - None

3. PUBLIC COMMUNICATION

The following people spoke: Max Nelson, Nicola Purpura, Bobby Snyder, Christina Balsom, Ray Guerra, Brian Huseby, Caro Gonzalez, Nani Nguyen, Bridget Drager, Kieran Shell, Ronald Nesbitt, Dylan Carlson, Austin Lind, and Arthur West.

4. CONSENT CALENDAR

4.A [15-1002](#) Approval of October 13, 2015, City Council Meeting Minutes

The minutes were adopted.

4.B [15-1019](#) Approval of October 20, 2015 Study Session Meeting Minutes

The minutes were adopted.

4.C [15-0966](#) Approval of Community Development Block Grant (CDBG) Annual Report for Program Year 2014

The decision was adopted.

4.D [15-0946](#) Approval of the Village at Mill Pond Phase I Final Plat

The decision was adopted.

- 4.E [15-1015](#) Approval of Interlocal Agreement With the Washington Traffic Safety Commission (WTSC) for Traffic Safety Emphasis Patrols

The decision was adopted.

- 4.F [15-1016](#) Approval of Interlocal agreement with the Washington Traffic Safety Commission (WTSC) for Local Liaison for Traffic Safety Emphasis Patrols

The decision was adopted.

Approval of the Consent Agenda

Councilmember Langer moved, seconded by Councilmember Hankins, to adopt the Consent Calendar. The motion carried by the following vote:

Aye: 7 - Mayor Buxbaum, Mayor Pro Tem Jones, Councilmember Cooper, Councilmember Hankins, Councilmember Langer, Councilmember Roe and Councilmember Selby

6. OTHER BUSINESS

- 6.A [15-1011](#) Potential Code Amendment Regarding Rezone Hearing Body

Principal Planner Todd Stamm discussed a potential code amendment that would provide for the Planning Commission, instead of the Hearing Examiner, to hold public hearings related to site specific rezone applications. He shared three options on how to proceed.

Councilmember Cooper moved, seconded by Councilmember Selby, to retain the existing Development Code provision so that the Hearing Examiner holds public hearings and makes recommendations to the City Council regarding site-specific rezone applications; and direct City staff to present an ordinance amending the Code to remove process ambiguities as described in the staff report. The motion carried by the following vote:

Aye: 7 - Mayor Buxbaum, Mayor Pro Tem Jones, Councilmember Cooper, Councilmember Hankins, Councilmember Langer, Councilmember Roe and Councilmember Selby

- 6.B [15-1014](#) Presentation of the 2016 Preliminary Operating Budget

City Manager Steve Hall shared data about the City and services provided to the community. He and Administrative Services Director Jane Kirkemo presented the 2016 Preliminary Operating Budget. Councilmembers asked clarifying questions.

The information was provided.

7. CONTINUED PUBLIC COMMUNICATION - None**8. REPORTS AND REFERRALS**

Councilmember Cooper requested a referral to the Planning Commission regarding an adjustment of zoning recreational marijuana dispensaries. Mayor Buxbaum requested further information be included in the referral before it is moved forward. The referral will be brought back at the November 10 Council Meeting.

8.A COUNCIL INTERGOVERNMENTAL/COMMITTEE REPORTS AND REFERRALS

Councilmembers reported on meetings and events they attended.

8.B CITY MANAGER'S REPORT AND REFERRALS

Mr. Hall discussed a funding request of \$9,000 from the Ambassador Program. He would like to bring this item to the Consent Calendar on November 10. The Council agreed.

9. ADJOURNMENT

The meeting adjourned at 9:25 p.m.

Title

Potential Code Amendment Regarding Rezone Hearing Body

Recommended Action**Planning Commission Recommendation:**

Move to direct staff to prepare an ordinance amending the Development Code to provide that the Planning Commission, instead of the Hearing Examiner, will hold public hearings related to site-specific rezone applications. (Option 3)

Note: City staff did not provide a recommendation when this issue was considered by the Planning Commission.

Recommended Action**Land use and Environment Committee Recommendation:**

Move to retain existing Development Code provision so that the Hearing Examiner continues to hold public hearings and makes recommendations to the City Council regarding site-specific rezone applications; and direct staff to report to the Land Use and Environment Committee in 2016 regarding the experience with this approach. (Option 2)

City Manager Recommendation:

Move to retain existing Development Code provision so that the Hearing Examiner holds public hearings and makes recommendations to the City Council regarding site specific rezone applications and direct City staff to prepare an ordinance amending the Code to remove ambiguities as described below with regard to that process.(Option 1)

Report**Issue:**

Whether Olympia's Hearing Examiner or the Planning Commission should hold public hearings before making a recommendation to the City Council regarding proposed changes in the land use zoning of individual properties.

Staff Contact:

Todd Stamm, Principal Planner, Community Planning and Development Department, 360.753.8597

Presenter:

Todd Stamm, Principal Planner

Background and Analysis:

During the recent update of the Comprehensive Plan, some members of the public suggested that if the Plan were to allow for more rezone applications, the City's Development Code should be amended to provide that rezone hearings would be held by the Planning Commission instead of the Hearing Examiner. On September 23, 2013, the Commission held a public hearing regarding this proposal and following deliberation on October 21, 2013, the Commission unanimously recommended that the City Council

amend the Development Code accordingly. (See attached minutes' excerpts.) This proposal was placed on hold until the Council approved the updated Plan in December of 2014. On May 19, 2015, the Council referred the rezone-hearing-body issue to the Land Use and Environment Committee for review.

The Committee considered the issue on July 16, 2015. Following discussion, which included Planning Commission Chair Carole Richmond and Commissioner Roger Horn, the Committee recommended continuing the current practice and recommended that staff report to the Committee in 2016 after the City has more experience with Examiner-led reviews of rezone proposals.

Legal Framework

Land use zoning, i.e., limiting land uses in each part of the community, is one of the primary means by which most cities seek to implement their Comprehensive Plans. Changes in the zoning map, commonly referred to as "rezones," may be proposed for individual properties or large areas of the City. As required by State law, the City Council makes the final decision for the City regarding all such zoning and Development Code amendments.

However, a series of court decisions have outlined that the process for reviewing '**site-specific**' zoning changes should be different than for '**area-wide**' zoning changes. (Although these terms are commonly used by the courts and in State law, they do not have specific definitions.) Olympia's current Development Code provides that **area-wide** zoning changes and any proposed rezone that would be inconsistent with the City's Comprehensive Plan are to be the subject of a Planning Commission public hearing and recommendation prior to a decision by the City Council. In contrast, the Code provides that the 'open record' public hearing regarding a proposed '**site specific**' rezone is to be held by the Olympia Hearing Examiner prior to the Examiner making a recommendation to the Council. Such **site-specific** rezone proposals are first referred to the Commission for review and recommendation prior to the Examiner's consideration, but because State law allows only one such hearing, the Commission does not hold a public hearing.

History of Olympia's Rezone Process

Olympia first adopted land use zoning during the 1930s. For about fifty years, all rezone hearings were held by the Planning Commission. However, in the 1980s Olympia and many other cities instituted a 'Hearing Examiner system' in response to court directives requiring that certain land use actions conform with 'quasi-judicial' procedures. The courts noted that certain actions, including site specific rezones, determined the property rights of a few individuals and accordingly that these proceedings should be more akin to judicial processes.

These 'quasi-judicial' practices -- intended to achieve a fair hearing and result -- include specific review criteria, sworn testimony, the opportunity for cross-examining witnesses, limited contact outside the hearing, and ultimately specific written findings of fact and conclusions of law. These proceedings differ greatly from the more common "legislative" processes to which the courts give much greater deference to local government

decisions and thus the City has broader discretion with regard to procedures.

To ensure compliance with these strict quasi-judicial procedural requirements, Olympia's Code was amended and for about ten years the Olympia Hearing Examiner held hearings regarding site-specific rezone proposals. However, in the mid-1990s Olympia's Comprehensive Plan became more specific, with the result that rezone applications were routinely joined with 'legislative' Plan amendments, and as a result subject to Planning Commission hearings.

The revised Comprehensive Plan adopted by the City in December of 2014 is less specific with regard to the zoning of each parcel of land. As a result, the staff anticipates that a few (maybe 2 or 3) site-specific rezone applications will be received each year hereafter. The first such request, submitted by the Medela Group in January of 2015, was recently preliminarily decided by the Council. Another rezone application has been received and pursuant to the City's 'twice each year' review process will be presented to the Council early in 2016.

State law requires that one and only one 'open record' public hearing be held by a city when considering a proposed site-specific rezone. The question now presented for the Council's consideration is whether the public hearing for these types of proposals should be heard by a Hearing Examiner or the Planning Commission. Neither Olympia's Comprehensive Plan nor State law designates whether the Commission or the Examiner should hold such hearings and make recommendations to the Council - so ultimately this choice of processes is at the Council's discretion. Some of the factors to consider in making this determination are listed in the attached document.

Conclusions

A survey of Olympia's peer cities (over a dozen similarly sized Washington cities plus Tumwater and Salem) revealed a broad range of approaches. For example, in Richland, Lacey, Longview, and Edmonds all rezones are reviewed by their Planning Commissions. In contrast, in Salem and Bremerton all rezones are reviewed by Hearing Examiners. Puyallup and Sammamish have split processes similar to Olympia. Many cities responded that they have tried or considered alternatives and each approach has advantages and disadvantages. As noted above, except for the Medela rezone, Olympia has little recent experience with site-specific rezone applications independent of Comprehensive Plan amendments. Review of another rezone application began on October 1.

The Washington Cities Insurance Authority (WCIA) recommends that all quasi-judicial matters, including site specific rezones, be heard by a Hearing Examiner. (See attached WCIA guidance.) On balance, it is the staff's opinion that, given the procedural complexity similar to other development proposals, the Examiner is the more appropriate officer to hold site-specific rezone hearings.

If the Examiner is to continue to hold site-specific rezone hearings, the staff recommends that the relevant code be clarified in three respects:

- To the \$3200 rezone application fee of Title 4, add “plus \$1,000 Hearing Examiner deposit” to clarify that site-specific rezone applicants are subject to reimbursing the City for Examiner costs
- Amend OMC 18.58.060 by inserting the clause “not associated with a Comprehensive Plan amendment” to clarify that only those types of site-specific rezones are subject to the twice-each-year process; others are limited to once each year
- Amend OMC 18.59.050 to clarify that site-specific rezone applications shall be forwarded to both the Planning Commission and Hearing Examiner for review and recommendation; and to clarify that any Planning Commission recommendation is to be issued prior to the Examiner’s public hearing

Note, these process clarifications were not considered by the Land Use and Environment Committee.

Neighborhood/Community Interests (if known):

Public interest in this topic has been minimal, but those citizens who have commented have generally favored the Planning Commission holding hearings regarding site-specific rezones.

Options:

1. Move to retain the existing Development Code provision so that the Hearing Examiner holds public hearings and makes recommendations to the City Council regarding site-specific rezone applications; and direct City staff to present an ordinance amending the Code to remove process ambiguities as described above.
2. Move to retain the existing Development Code provision so that the Hearing Examiner continues to hold public hearings and makes recommendations to the City Council regarding site-specific rezone applications; and direct staff to report to the Land Use and Environment Committee in 2016 regarding experience with this approach.
3. Move to direct staff to present an ordinance amending the Development Code to provide that the Planning Commission, instead of the Hearing Examiner, will hold public hearings related to site-specific rezone applications.
4. Schedule a public hearing regarding this topic.

Financial Impact:

No direct impact; Examiner’s hearing costs are borne by rezone applicants. As discussed above, increases in secondary costs could result from the proposed change.

FACTORS CONSIDERED BY PLANNING COMMISSION AND LAND USE & ENVIRONMENT COMMITTEE

1. Both the Hearing Examiner and Planning Commission membership are selected by the City Council. If the regular Examiner is unable to hear a particular matter, a temporary Examiner is selected by the Community Planning and Development Director from a list pre-approved by the Council.
2. Unlike a voting body such as the Commission, an Examiner's decision cannot result in a tie vote. Similarly, conflicting statements or opinions expressed by different commissioners can result in greater legal risk when quasi-judicial decisions, such as site-specific rezones, are reviewed on appeal.
3. Since the Commission's review must occur at public meetings with due notice, review and recommendation; reaching a decision generally requires more time for a Commission than if review is conducted by an Examiner. (Examiners are generally limited to a 14-day review period.)
4. The Planning Commission's work program is typically very full throughout the year. Adding site-specific rezone requests likely would affect the timeliness for completing consideration of other items on their meeting agendas. The Hearing Examiner is available as needed to address site-specific rezones.
5. Unlike a single Examiner, the recommendation of a Planning Commission can turn on the particular members who participate in the proceeding, and especially who attends the meeting where the final vote occurs.
6. Site-specific rezones are 'quasi-judicial' matters subject to extraordinary procedural requirements. Among these are requirements to ensure that the process is not only fair in fact, but that it appears fair to a reasonable person; contact with interested parties outside of the hearing is generally prohibited; and specific findings and conclusions supporting the decision are usually needed. In general, professional Hearing Examiners are better trained in complying with these requirements than lay Planning Commissioners. In addition, the higher number of commissioners can lead to greater opportunity for inappropriate contact with interested parties.
7. Hearing Examiners usually are responsible for reviewing development proposals, while Planning Commissions generally address broader policy questions. Site-specific rezones include aspects of both types of decisions. Like development proposals, they must be decided based on specific criteria, but like broader code amendments they are a regulation change and not approval to construct a specific development.
8. Hearing Examiners are trained professionals accustomed to the quasi-judicial format and process required for site-specific rezone reviews, while Planning Commissioners are generally appointed based on other considerations.
9. Although site-specific rezones must be reviewed according to court-mandated and

adopted legal criteria, both proponents and opponents will often seek to have reviewing parties consider factors outside these standards.

10. Site-specific rezones not associated with a Comprehensive Plan amendment are subject to the Washington Local Project Review Act. Thus any appeal is to Superior Court instead of the Growth Hearings Board, and the Court's review is different in form and substance from that of the Board. For instance, the Court will generally review the City's decision for consistency with the Comprehensive Plan but not for consistency with the Growth Management Act. The Court's review will usually be based on the City's hearing record and written decision.
11. Site-specific rezones can be the subject of only one 'open-record' (evidentiary) hearing and, pursuant to a recently adopted City code, are reviewed in two sets each year and must be decided within 180 days.
12. The direct cost to a rezone applicant is greater when review is conducted by a Hearing Examiner since the City requires the applicant to reimburse the City for the cost of employing an Examiner.
13. Unlike a Comprehensive Plan amendment proposal, any application for a site-specific rezone is to be considered on its merits; i.e., unlike Plan amendments, there is no 'screening' step by which the City can decline to consider a rezone application. It is difficult to predict how many such applications will be received each year. In general the Hearing Examiner can adapt more readily than the Commission's calendar to workload surges.
14. The proposed amendment would not be applicable to the 'master planned development' approvals of 'centers and villages' which are a hybrid of development approval and zoning map amendment. Such master plans are reviewed by both the Hearing Examiner and the Design Review Board and subject to final action by the Council. Unlike 'pure' rezones such map amendments simply add a note referencing the master plan approval consistent with the zoning. (Some citizens have suggested that the Commission, instead of the Examiner, should also hold the hearings related to these types of developments.)
15. Although rezone proposals must be judged against specific criteria including those in Olympia Municipal Code 18.59.050, these criteria are much broader in nature than the prescriptive measurements and criteria usually applicable to specific development proposals. Olympia's rezone criteria set forth more specifically in Olympia Municipal Code 18.59.050 and 18.59.055 can be summarized as whether:
 - The rezone is consistent with the Comprehensive Plan and its Future Land Use Map
 - The rezone will maintain the public health, safety, or welfare
 - The rezone is consistent with other development regulations
 - The rezone will result in a zoning district that is compatible with adjoining district
 - Existing and planned public facilities are adequate and likely available to serve the potential development

Are you using your land use hearing examiner to the fullest extent possible?

by Tanya Crites

While many WCIA member cities and towns are using hearing examiners for various land use and code enforcement matters, some may not be utilizing a hearing examiner to the fullest extent provided by law. RCW 35A.63.170 authorizes a local government's legislative body to adopt a hearing examiner system under which the hearing examiner may hear and decide on various types of issues, including but not limited to:

- (a) Applications for conditional uses, variances, subdivisions, shoreline permits, or any other class of applications for or pertaining to development of land or land use;
- (b) Appeals of administrative decisions or determinations; and
- (c) Appeals of administrative decisions or determinations pursuant to, RCW 43.21C, State Environmental Policy.

The legislative body prescribes the procedures to be followed by the hearing examiner and provides the authority for the hearing examiner to conduct open record hearings and decide applications for all types of permits and land use approvals.

The only two instances in which the legislative body must make decisions on land use permits and approvals are:

- (a) decisions on final plats (subdivisions), and
- (b) area-wide/general application zoning decisions/rezones.

There are many compelling arguments in favor of using a hearing examiner system. By using a politically neutral, specially trained professional hearing examiner to the greatest extent possible, the legislative body and planning commission have more time for other important planning, goal setting and law-making functions, in addition to reducing the risk of political influence and pressure. WCIA recommends that all members adopt a hearing examiner system that allows the hearing examiner to make final quasi-judicial decisions on land use permits and decide administrative appeals, and that hearing examiner decision appeals go to superior court.

Here is how WCIA can help members adopt or expand a hearing examiner system. Typically, the first step is educating the council on the benefits of a comprehensive

hearing examiner system. Through the legal consultation program, WCIA can provide information on the legal, political and community benefits of using a hearing examiner to the fullest extent. WCIA can provide this guidance in a written document specifically prepared for the member's council or with an on-site presentation. Contact your assigned Risk Management Representative to arrange for assistance.

Site-Specific Rezone Hearing Body

Planning Commission Minutes Excerpts

September 23, 2013:

Code Amendment to Change Rezone Hearing Body

Principal Planner Todd Stamm provided an overview of a potential code change to make the Planning Commission the hearing body on all rezones. A more comprehensive overview is in the agenda packet. Mr. Stamm gave examples of property owner feedback regarding the amendment, and responded to questions about the decision-making and appeal process, costs, timing, and public comment opportunities.

Chair Parker opened the public hearing:

Bob Jacobs of 720 Governor Stevens spoke about the role of the Planning Commission.

Walt Jorgenson of 823 North Street spoke about the hearing examiner and Planning Commission decision-making processes. He supports the continuation of rezoning issues being handled by the Planning Commission.

Chair Parker closed the public hearing.

October 21, 2013:

Code Amendment to Change Rezone Hearing Body

Commissioner Horn moved, seconded by Commissioner Hoppe, that the proposed language beginning on page 14 of 50 be approved.

Discussion:

- Expand the scope of review for urban villages and put request on future work plan.
- Retain the current responsibility or authority for rezoning.
- It is likely that similar rezones will come to the Commission without amendment.
- Process or easing of workload should be considered.
- Concern about changing the protocol when the current Hearing Examiner is competent and meetings are open to the public.
- Hearing Examiner may be a better fit for these hearings.
- Planning Commission is tasked with big picture decisions and Hearing Examiner can attend to smaller matters of policy.
- Policy issues should come to the Commission and are more appropriate for their oversight.
- The Commission can reliably decide rezone questions.
- 9 member Commission could help decisions be more diverse and protective of policy.
- Difference between site specific and regional process decisions.

Commissioner Horn moved, seconded by Commissioner Hoppe, to approve the recommendation. The motion carried by the following vote:

Chair Parker, Vice Chair Bardin, Commissioner Andresen, Commissioner Bateman, Commissioner Brown, Commissioner Hoppe, Commissioner Horn, Commissioner Richmond and Commissioner Watts



City Council

Approval of Ordinance Amending Olympia Municipal Code (OMC) Chapter 9.44 by Adopting the Crime of Minor in Possession or Consumption of Alcohol, Suppling Liquor to Minor, and Minor Exhibiting the Effects of Having Consumed Liquor Pursuant to RCW 66.44.270

Agenda Date: 5/17/2016
Agenda Item Number: 4.F
File Number: 16-0643

Type: ordinance **Version:** 1 **Status:** 1st Reading-Consent

Title

Approval of Ordinance Amending Olympia Municipal Code (OMC) Chapter 9.44 by Adopting the Crime of Minor in Possession or Consumption of Alcohol, Suppling Liquor to Minor, and Minor Exhibiting the Effects of Having Consumed Liquor Pursuant to RCW 66.44.270

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve on first reading and forward to second reading the attached ordinance amending OMC Chapter 9.44 relating to Minors in Possession or Consumption of Alcohol, Suppling Liquor to Minors, and Minors Exhibiting the Effects of Having Consumed Liquor Pursuant to RCW 66.44.270.

Report

Issue:

Whether to approve the proposed ordinance.

Staff Contact:

Rocio D. Ferguson, Chief Prosecutor, 360.753.8449

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

Currently the OMC only prohibits possession, consumption, and acquisition of alcohol by minors. However, if a minor is intoxicated but a police officer is unable to establish when and where consumption occurred or does not establish possession of alcohol, enforcement action may not be

permitted. Adoption of RCW 66.44.270 will provide law enforcement better tools for early intervention and enforcement.

Neighborhood/Community Interests (if known):

There is an inherent interest in protecting minors from the effects and consequences of intoxication.

Options:

1. Approve the proposed ordinance.
2. Direct staff to modify the proposed ordinance.
3. Do not approve the proposed ordinance.

Financial Impact:

None.

Attachments:

Proposed ordinance
RCW 66.44.270

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON AMENDING OLYMPIA MUNICIPAL CODE CHAPTER 9.44 RELATING TO OFFENSES BY OR AGAINST JUVENILES; SPECIFICALLY ADOPTING BY REFERENCE SECTION 66.44.270 OF THE REVISED CODE OF WASHINGTON

WHEREAS, the City has an interest in protecting minors from the harmful effects and consequences of intoxication; and

WHEREAS, the City's current code provision does not adequately address circumstances where a minor is intoxicated but is not in possession of alcohol; and

WHEREAS, RCW 66.44.270 sets forth in greater detail the behavior that the City wishes to prohibit;

WHEREAS, this Ordinance is adopted pursuant to Article 11, Section 11, of the Washington State Constitution and any other applicable authority;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of OMC 9.44. Chapter 9.44 of the Olympia Municipal Code is hereby amended to read as follows:

**Chapter 9.44
OFFENSES BY OR AGAINST JUVENILES**

9.44.000 Chapter Contents

Sections:

- 9.44.010 Definitions.
- 9.44.020 Offenses in taverns.
- 9.44.030 Person under twenty-one prohibited where intoxicants are served.
- 9.44.040 ~~Intoxicating liquor—Possession by and sale to person under twenty-one.~~
State statutes adopted by reference.
- 9.44.050 False identification to obtain liquor.
- 9.44.060 Firearms.
- 9.44.070 Tobacco to minor.

9.44.010 Definitions

For the purpose of this chapter, certain words and terms are defined as follows:

- A. "Liquor" means liquor as defined in the Washington State Liquor Act (RCW 66.040.010(16)).
- B. "Minor" means any person less than eighteen years of age, unless otherwise specifically designated.

C. "Tavern" means any establishment with special space and accommodations for sale by the glass, and for consumption on the premises, of beer; except, that bona fide restaurants, dining rooms and cafes serving commercial food to the public shall not be classified as a tavern during the hours such food service is made available to the public.

9.44.020 Offenses in taverns

It is unlawful for any person, firm or corporation within the city:

- A. To serve or to allow to remain on the premises in a tavern any person under twenty-one;
- B. For any person under twenty-one to enter or remain on the premises of any tavern.

9.44.030 Person under twenty-one prohibited where intoxicants are served

- A. It is unlawful for any person having charge of a public place in the city where intoxicating liquors are served to admit or to allow any person under twenty-one to remain on the premises contrary to the laws of the state.
- B. It is unlawful for any person under the age of twenty-one to enter or remain in any public place where intoxicants are served.

~~9.44.040 Intoxicating liquor—Possession by and sale to person under twenty-one~~

~~A.— It is unlawful for any person under twenty-one to acquire in any manner, consume or have in his possession any intoxicating liquor; provided that the foregoing shall not apply in the case of liquor given or permitted to be given to such person under twenty-one by his parents or guardians for beverage or medicinal purposes, or administered to him by his physician or dentist for medicinal purposes.~~

~~B.— It is unlawful for any person to give, sell, or otherwise supply intoxicating liquor to any person under twenty-one or permit any person under twenty-one to consume intoxicating liquor on his premises or on any premises under his control, except as exempted in subsection A of this section.~~

9.44.040 State statute adopted by reference

The following section of the Revised Code of Washington (RCW), as it appears now or is hereafter amended, is hereby adopted by reference as though fully set forth in this chapter:

RCW 66.44.270- Furnishing Liquor to Minors - Possession, use – Penalties – Exhibition of effects – Exceptions

9.44.050 False identification to obtain liquor

It is unlawful for anyone knowingly to transfer any identification of age to a person under the age of twenty-one years for the purpose of permitting such person to obtain liquor, or for such person to use such

identification or make false representation as to his age for the purpose of obtaining liquor or gaining admittance to a tavern.

9.44.060 Firearms

A. It is unlawful for anyone to sell, give, furnish or cause to be furnished, or permit to be sold, given, furnished or cause to be furnished to a minor a pistol, rifle, shotgun or similar firearm, or any ammunition for the same.

B. It is unlawful for a minor to purchase, possess, or use any firearm or any ammunition for the same.

C. In any prosecution under this section it is an affirmative defense that the firearm is being used or is about to be used immediately at a rifle range or that such minor is to immediately embark on a lawful animal hunt and such minor possesses a lawful hunting license and is accompanied by a person over the age of eighteen years.

9.44.070 Tobacco to minor

It is unlawful for any person to sell, give, furnish or cause to be furnished to any minor any cigarette, cigar or tobacco in any form, or for a minor to possess same.

Section 2. Severability. The provisions of this Ordinance are declared separate and severable. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of this Ordinance or application of the provision to other persons or circumstances, shall be unaffected.

Section 3. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 4. Effective Date. This Ordinance shall take effect five (5) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:



RCWs > Title 66 > Chapter 66.44 > Section 66.44.270

[66.44.265](#) << [66.44.270](#) >> [66.44.280](#)

RCW 66.44.270

Furnishing liquor to minors—Possession, use—Penalties—Exhibition of effects—Exceptions.

(1) It is unlawful for any person to sell, give, or otherwise supply liquor to any person under the age of twenty-one years or permit any person under that age to consume liquor on his or her premises or on any premises under his or her control. For the purposes of this subsection, "premises" includes real property, houses, buildings, and other structures, and motor vehicles and watercraft. A violation of this subsection is a gross misdemeanor punishable as provided for in chapter [9A.20](#) RCW.

(2)(a) It is unlawful for any person under the age of twenty-one years to possess, consume, or otherwise acquire any liquor. A violation of this subsection is a gross misdemeanor punishable as provided for in chapter [9A.20](#) RCW.

(b) It is unlawful for a person under the age of twenty-one years to be in a public place, or to be in a motor vehicle in a public place, while exhibiting the effects of having consumed liquor. For purposes of this subsection, exhibiting the effects of having consumed liquor means that a person has the odor of liquor on his or her breath and either: (i) Is in possession of or close proximity to a container that has or recently had liquor in it; or (ii) by speech, manner, appearance, behavior, lack of coordination, or otherwise, exhibits that he or she is under the influence of liquor. This subsection (2)(b) does not apply if the person is in the presence of a parent or guardian or has consumed or is consuming liquor under circumstances described in subsection (4), (5), or (7) of this section.

(3) Subsections (1) and (2)(a) of this section do not apply to liquor given or permitted to be given to a person under the age of twenty-one years by a parent or guardian and consumed in the presence of the parent or guardian. This subsection shall not authorize consumption or possession of liquor by a person under the age of twenty-one years on any premises licensed under chapter [66.24](#) RCW.

(4) This section does not apply to liquor given for medicinal purposes to a person under the age of twenty-one years by a parent, guardian, physician, or dentist.

(5) This section does not apply to liquor given to a person under the age of twenty-one years when such liquor is being used in connection with religious services and the amount consumed is the minimal amount necessary for the religious service.

(6) This section does not apply to liquor provided to students under twenty-one years of age in accordance with a special permit issued under RCW [66.20.010](#)(12).

(7)(a) A person under the age of twenty-one years acting in good faith who seeks medical assistance for someone experiencing alcohol poisoning shall not be charged or prosecuted under subsection (2)(a) of this section, if the evidence for the charge was obtained as a result of the person seeking medical assistance.

(b) A person under the age of twenty-one years who experiences alcohol poisoning and is in need of medical assistance shall not be charged or prosecuted under subsection (2)(a) of this section, if the evidence for the charge was obtained as a result of the poisoning and need for medical assistance.

(c) The protection in this subsection shall not be grounds for suppression of evidence in other criminal charges.

(8) Conviction or forfeiture of bail for a violation of this section by a person under the age of twenty-one years at the time of such conviction or forfeiture shall not be a disqualification of that person to acquire a license to sell or dispense any liquor after that person has attained the age of twenty-one years.

[[2015 c 59 § 2](#); [2013 c 112 § 2](#); [1998 c 4 § 1](#); [1993 c 513 § 1](#); [1987 c 458 § 3](#); [1955 c 70 § 2](#). Prior: 1935 c 174 § 6(1); 1933 ex.s. c 62 § 37(1); RRS § 7306-37(1); prior: Code 1881 § 939; [1877 p 205 § 5](#).]

NOTES:

Intent—2013 c 112: "The legislature intends to save lives by increasing timely medical attention to alcohol poisoning victims through the establishment of limited immunity from prosecution for people under the age of twenty-one years who seek medical assistance in alcohol poisoning situations. Dozens of alcohol poisonings occur each year in Washington state. Many of these incidents occur because people delay or forego seeking medical assistance for fear of arrest or police involvement, which researchers continually identify as a significant barrier to the ideal response of calling 911." [[2013 c 112 § 1](#).]

Severability—1987 c 458: See note following RCW [48.21.160](#).

Minors, access to tobacco, role of liquor and cannabis board: Chapter [70.155](#) RCW.

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City Council

Approval of Ordinance Amending High-Density Corridor-1 Zoning District Text

Agenda Date: 5/17/2016
Agenda Item Number: 4.G
File Number: 16-0607

Type: ordinance **Version:** 1 **Status:** 1st Reading-Consent

Title

Approval of Ordinance Amending High-Density Corridor-1 Zoning District Text

Recommended Action

Planning Commission Recommendation:

The Planning Commission recommends approval of the Ordinance to amend the text in Subsection 18.06.100A of the Olympia Municipal Code relating to building heights in High Density Corridor Zones.

City Manager Recommendation:

Move to approve the Ordinance as referred by the Land Use and Environment Committee and recommended by the Planning Commission on first reading and forward to second reading.

Report

Issue:

Whether to amend Subsection 18.06.100A of the Olympia Municipal Code to not allow a 'bonus' residential floor in the High Density Corridor-1 (HDC-1) and High Density Corridor-2 (HDC-2) zones within 100 feet of historic districts.

Staff Contact:

Linda Bentley, Senior Planner, Community Planning and Development Department, 360.753.8046

Presenter:

None - Consent Calendar Item.

Background and Analysis:

Residents in the Bigelow Heights neighborhood brought to staff's attention that the City's development code allowed building heights they believed were incompatible with their neighborhood along its south edge and inconsistent with the City's comprehensive plan. Specifically, Olympia's development regulations state that building heights in the HDC-1 and HDC-2 zones within 100 feet of low-density residential zones are limited to 35 feet, but also state that a 'bonus' residential floor is available. City staff brought the issue to the August 27, 2015, Land Use and Environment Committee meeting, proposing an amendment to the regulations which would state that such a 'bonus' is not available within 100 feet of historic districts - consistent with the newly-adopted Comprehensive Plan.

The Land Use and Environment Committee referred the issue to the Planning Commission for a recommendation.

On October 19, 2015, the Commission held a public hearing regarding this proposal. Two parties commented at the hearing, and others submitted written comments prior to close of the record on October 23.

On November 2, 2015, the Planning Commission made a recommendation to the City Council to approve the amendment proposed by City staff with this additional proviso: “the Olympia Planning Commission believes that while the revised code will bring the code into compliance with the Comprehensive Plan, it raises concerns regarding the general policies of the Comprehensive Plan for a compact, walkable city. Therefore, the Commission strongly recommends the City explore Comprehensive Plan policies regarding density along high density corridors.”

Consistency with Comprehensive Plan

The Olympia Comprehensive Plan adopted in December 2014 includes Land Use and Urban Design policy 13.7, applicable to the areas zoned as HDC-1 and HDC-2. That policy reads, in part:

Designate different categories of corridors generally as follows:

- Areas nearest downtown along Harrison Avenue east of Division Street and the upper portions of the State Street/Fourth Avenue corridor to the intersection of Fourth Avenue and Pacific Avenue should blend travel modes with priority for pedestrian, bicycle and transit systems. These areas should provide for a mix of low-intensity professional offices, commercial uses and multifamily buildings forming a continuous and pedestrian-oriented edge along the arterial streets. *There will be a 35 feet height limit if any portion of the building is within 100’ from a single-family residential zone, provided that the City may establish an additional height bonus for residential development except in areas adjacent to a designated historic district.* [Emphasis added.]

The Comprehensive Plan policy quoted above states that the bonus floor provision may be available in all portions of the HDC-1 and HDC-2 zones, except near a historic district. About two blocks of HDC-1 zoned property along the north side of State Avenue between Eastside and Tullis Streets abuts a designated historic district. (See attached map.)

The attached Ordinance specifies that the bonus floor is not available near historic districts. If adopted, this amendment would immediately apply to only a few properties along State Avenue but it would also be applicable to any similarly situated properties if other historic districts are created.

Neighborhood/Community Interests (if known):

Residents in the vicinity of the Olympia Avenue historic district and the Bigelow neighborhood in general expressed interest in this issue.

Options:

1. Approve the Ordinance as recommended by Planning Commission;
2. Refer back to a Committee or the Planning Commission for further consideration;

3. Not approve the amendment as recommended by Planning Commission.

Financial Impact:

No substantial impact to the City.

Attachments:

Ordinance

Map

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, RELATING TO BUILDING HEIGHTS IN HIGH DENSITY CORRIDOR ZONES AND AMENDING SUBSECTION 18.06.100.A OF THE OLYMPIA MUNICIPAL CODE.

WHEREAS, the Land Use & Environment Committee of the City Council received a briefing on the proposed zoning text amendment relating to building heights in high density corridor zones on August 27, 2015 and referred the matter to the Olympia Planning Commission; and

WHEREAS, the Olympia Planning Commission received a briefing on the proposed zoning text amendment and held a public hearing on October 19, 2015, and deliberated on November 2, 2015; and

WHEREAS, following the public hearing and deliberations, the Planning Commission recommended amending Subsection 18.06.100A of the Olympia Municipal Code; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), the City issued a Determination of Non-significance on the proposed zoning text amendment on March 16, 2016; and

WHEREAS, no appeal of the SEPA Determination of Non-significance was submitted; and

WHEREAS, this Ordinance is consistent with the City of Olympia Comprehensive Plan, Land Use and Urban Design policy 13.7, applicable to the areas zoned as HDC-1 and HDC-2; and

WHEREAS, this Ordinance meets the goals and requirements of the Growth Management Act; and

WHEREAS, Chapter 35A.63 and 36.70 RCW and Article 11, Section 11 of the Washington State Constitution authorize and permit the City to adopt this Ordinance; and

WHEREAS, this Ordinance is supported by the staff report and materials associated with this Ordinance, along with other documents on file with the City of Olympia, including but not limited to documents relating to Community Development and Planning file 15-0131; and

WHEREAS, this Ordinance is also supported by the professional judgment and experience of the City staff who have worked on this proposal; and

WHEREAS, City Staff are known to the City Council, and staff's curriculum vitae shall be part of the record in support of this Ordinance;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of OMC 18.06.100. Olympia Municipal Code subsection 18.06.100.A is hereby amended to read as follows:

18.06.100 Commercial districts' development standards--Specific

A. Height.

1. Roof structures for the housing of elevators, stairways, tanks, ventilating fans and similar equipment required to operate and maintain the building, fire or parapet walls, skylights, towers,

flagpoles, chimneys, smoke stacks, wireless masts, T.V. antennas, steeples and similar structures may be erected above the height limits prescribed in this Title, provided that no roof structure, feature or any other device above the prescribed height limit shall be allowed or used for the purpose of providing additional floor space. This height exception does not apply to the additional story provision for residential development described in OMC 18.06.100.A.6. Provided, further, that no roof structure or architectural feature shall be erected more than eighteen (18) feet above the height limit of the district, whether such structure is attached to it or free-standing.

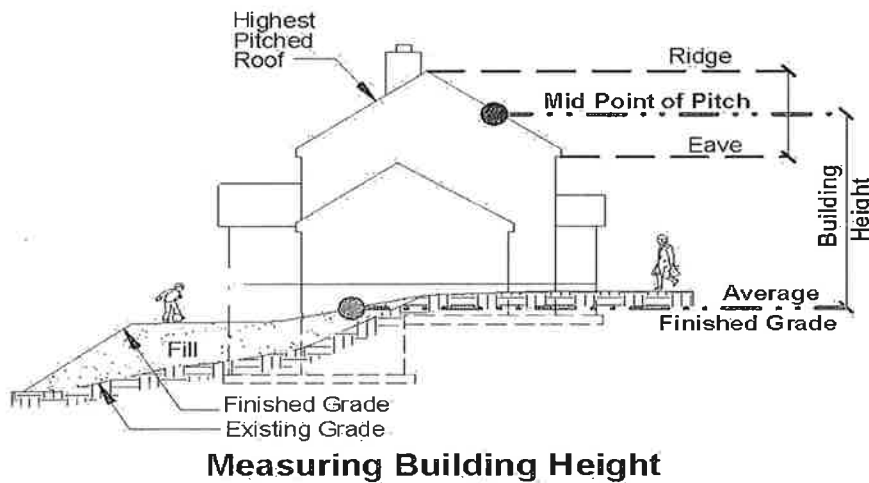


FIGURE 6-1A

2. Urban Waterfront (UW) District.
 - a. Allowed building heights in the Urban Waterfront (UW) District are specified in Figure 6-2.
 - b. Bonus for residential development.
 - i. In the area labeled sixty-five (65) feet on Figure 6-2, up to two additional stories may be built, if the project is located in the downtown, if the added stories are stepped back from the street wall at least eight (8) feet, and if floor area equal to the amount from the added stories is provided for residences:
 - (a) In the same building--i.e., it is a residential or a mixed use building; or

(b) With commercial and residential uses in separate buildings on the same site;
or

(c) With commercial and residential uses on separate sites within the Urban Waterfront (UW) district.

ii. Occupancy. Housing provided under this bonus provision as part of a mixed use project must receive an occupancy permit at the same time as, or in advance of, issuance of an occupancy permit for non-residential portions of the project.

iii. Conversion. Housing provided under this bonus provision shall not be converted to commercial use.

iv. Source of housing units. Housing provided under this bonus provision may be:

(a) New construction,

(b) Adaptive reuse of a formerly non-residential structure, or

(c) Rehabilitation of existing housing.

c. West Bay Drive building height and view blockage limits.

i. In order to retain public and private view access to Budd Inlet from hillside sites above West Bay Drive, the maximum building height in the West Bay Drive portion of the Urban Waterfront (UW) District labeled " 42'-65' " on Figure 6-2 shall be up to a maximum of 42 feet, except as provided in subsections (iii) and (iv) below.

ii. In order to retain public view access of Budd Inlet from street level in the West Bay Drive portion of the Urban Waterfront (UW) District labeled " 42'-65' " on Figure 6-2, view blockage shall be limited as follows:

(a) Views of the water will be defined as area without obstruction by buildings or major structures measured between 45 and 90 degrees to West Bay Drive, as illustrated in Figure 6-2A.

(b) Said view blockage shall be limited to 45 percent of the views of the water from West Bay Drive by buildings or major structures located between West Bay Drive and the mean high water line.

(c) Exceptions are provided in subsections (iii) and (iv) below.

iii. Development shall be subject to the alternate standards for building height and view blockage, if alternate waterfront view access is provided through public amenities as follows:

Amenity Provided	Limits on Horizontal View Blockage and Height
Waterfront Trail	70% up to 42 ft., OR 45% up to 65 ft.
Expanded Waterfront Trail Corridor Facility (or small waterfront park area).	50% up to 42 ft., OR 45% up to 50 ft.
Both	70% up to 65 ft.

Any development over 42 feet shall be required to include a minimum of 20% of the usable building area for residential purposes.

iv. Criteria for approval of alternate waterfront view access.

(a) Waterfront Trail.

(1) Trail right-of-way consistent with City trail standards shall be dedicated to the City.

(2) The trail shall be designed consistent with City standards and requirements, or as otherwise approved by the Olympia Parks, Arts and Recreation Department. Because the trail passes by different land uses, it may take a different character in different locations, for reasons of safety, privacy, or environmental protection.

(3) The developer shall design, build, and dedicate the facility to the City.

(4) An analysis of recreation needs shall be provided by the Olympia Parks, Arts and Recreation Department. An analysis of environmental impacts, hazardous waste risks, and engineering issues sufficient to determine the design and location for the trail facility shall be approved by the Olympia Parks, Arts and Recreation Department but provided by the developer. All analysis shall be complete prior to approval.

(b) Expanded Waterfront Trail Corridor Facility or Small Waterfront Park.

(1) The developer shall build and dedicate the facility and its site to the City.

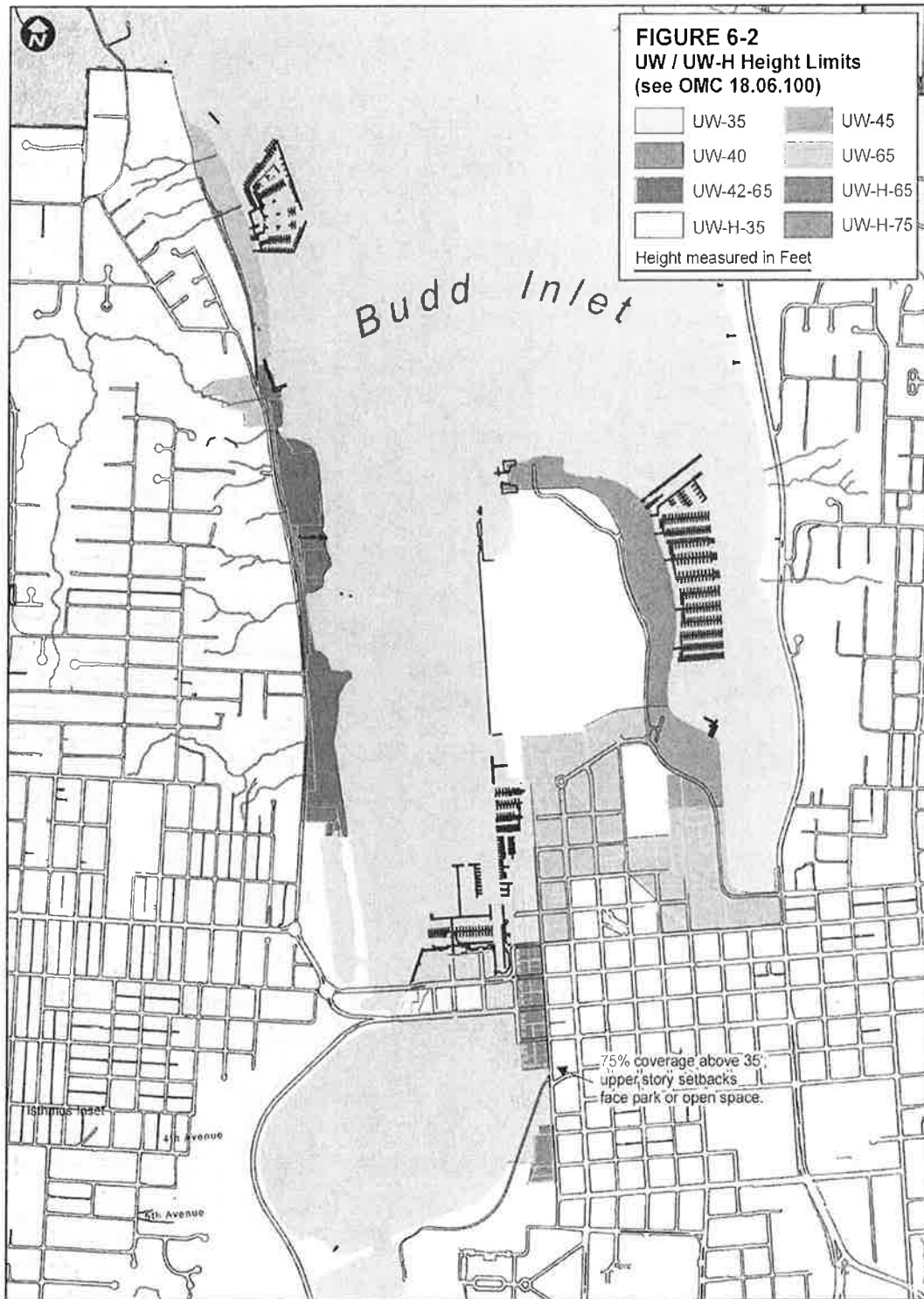
(2) The expanded waterfront trail corridor facility or small park area shall be designed consistent with City and other applicable government standards and requirements, or as otherwise approved by the Olympia Parks, Arts and Recreation Department. The expanded waterfront trail corridor facility or small park may vary in size from City park standards and could include additional right-of-way for the expanded trail, landscaping, habitat enhancement, benches, lighting, parking, restrooms, garbage receptacles, telephones, interpretive signs and other park facilities.

(3) An analysis of environmental impacts, hazardous waste risks, trail improvements, and engineering issues sufficient to design the expanded waterfront trail corridor facility or small park area shall be approved by Olympia Parks, Arts and Recreation Department but provided by the developer. All analysis shall be complete prior to approval.

(4) The expanded waterfront trail corridor facility or small park shall have a publicly accessible connection to West Bay Drive, designed, constructed, and dedicated for public use by the developer.

v. The view blockage rules shall be applied on a project-wide basis and not for each lot or parcel in a project, thus allowing projects providing more views on some lots to have more view blockage on other lots as long as the overall project meets the view blockage requirements.

Figure 6-2 Urban Waterfront and Urban Waterfront Height Limits



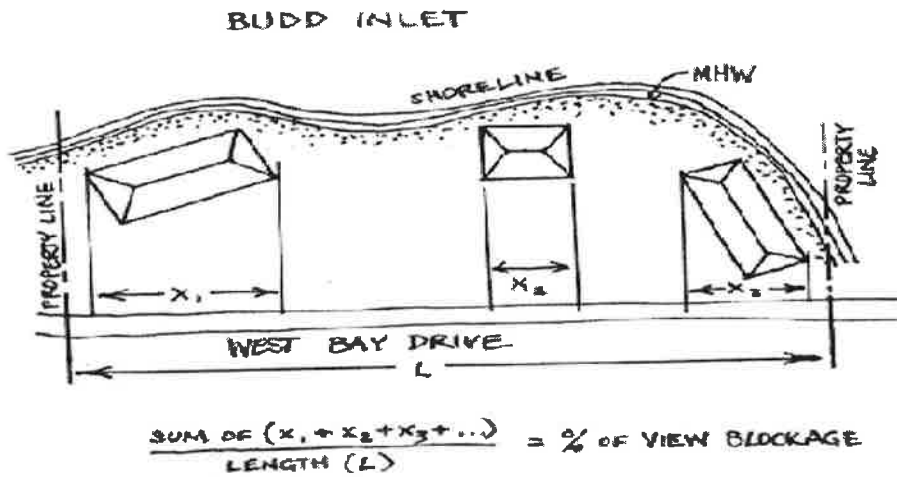


FIGURE 6-2A

Calculating View Blockage in a portion of the Urban Waterfront District along West Bay Drive.

3. Commercial Services-High Density. The maximum building height allowed is one hundred (100) feet. Provided, however, that no building or structure may exceed seventy-five (75) feet in height without conditional review and approval by the Hearing Examiner. Approval of structures exceeding seventy-five (75) feet in height shall meet the following criteria:

- a. The building design shall be compatible with or enhance the physical characteristics of the site, the appearance of buildings adjacent to the site and the character of the district.
- b. The site plan shall facilitate efficient and convenient circulation, shall include landscaping that creates a pleasing appearance from both within and off the site and shall be an asset to the community at large.
- c. Enhancement of public view access or direct public access to usable open space areas shall offset any potential upland view loss which may occur as a result of the proposal.

4. Downtown Business District.

- a. Building height allowed outright in the DB zone is seventy-five (75) feet.

- b. Bonus for residential development.
 - c. Enhancement of public view access or direct public access to usable open space areas shall offset any potential upland view loss which may occur as a result of the proposal.
 - i. Buildings may exceed the height allowed outright (75 feet) by up to two (2) stories, if the added stories are stepped back from the street wall at least eight (8) feet, and if floor area equal to the amount from the added stories is provided for residences:
 - (a) In the same building--i.e., it is a residential or a mixed use building; or
 - (b) With commercial and residential uses in separate buildings on the same site; or
 - (c) With commercial and residential uses on separate sites within the Downtown Business (DB) zone.
 - ii. Occupancy. Housing provided under this bonus provision as part of a mixed use project must receive an occupancy permit at the same time as, or in advance of, issuance of an occupancy permit for non-residential portions of the project.
 - iii. Conversion. Housing provided under this bonus provision shall not be converted to commercial use.
 - iv. Source of housing units. Housing provided under this bonus provision may be:
 - (a) New construction,
 - (b) Adaptive reuse of a formerly non-residential structure, or
 - (c) Rehabilitation of existing housing.
5. Urban Waterfront - Housing.
- a. Allowed building heights in the Urban Waterfront-Housing District are specified in Figure 6-2.
 - b. Required step backs and placement of step backs over 35 feet on specific blocks are specified in Figure 6-2.
6. High Density Corridor (HDC - 1 and HDC - 2).

- a. Building height allowed outright in the HDC-1 and HDC-2 zones as outlined in OMC 18.06.080, Table 6.02.
- b. Additional story for residential development.
 - i. Additional story can only be allowed for those development that do not provide a mechanical "penthouse" room as allowed under the provisions of OMC 18.06.100.A. However, the additional story can be occupied with both residential development and mechanical equipment.
 - ii. Buildings may exceed the height allowed outright in OMC 18.06.080, Table 6.02, by one (1) story. The additional story cannot exceed fourteen (14) feet above the maximum allowable height requirement as specified in OMC 18.06.080, Table 6.02.
 - iii. The additional story must be stepped back at least eight (8) feet from any abutting street or any abutting residential zoning district. See OMC 18.06.100.B.2.
 - iv. Housing provided under this additional story as part of a mixed use project must receive an occupancy permit at the same time as, or in advance of, issuance of an occupancy permit for non-residential portions of the project.
 - v. Housing provided under this additional story provision shall not be converted to commercial use. Except that the residential units may conduct business activities under the provision for home occupations. See OMC 18.04.060.I.
 - vi. Housing provided under this bonus provision may be:
 - (a) New construction;
 - (b) Adaptive reuse of a formerly non-residential structure, or
 - (c) Rehabilitation of existing housing.
 - vii. This additional story is not available and will not be approved within 100 feet of a designated historic district.

Section 2. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 3. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 4. Effective Date. This Ordinance shall take effect five (5) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Darren Nienaber DCA

CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:

State Avenue Location

Olympia



Affected Properties: North side of State from Eastside to Tullis



City Council

Approval of Ordinance amending Olympia Municipal Code (OMC) Chapter 9.40 Relating to Offenses Against Property by Adopting by Reference Vehicle Prowling in the Second Degree Pursuant to RCW 9A.52.100, Theft Third Degree Pursuant to RCW 9A.56.050 and Possessing Stolen Property Third Degree Pursuant to RCW 9A.56.170

Agenda Date: 5/17/2016
Agenda Item Number: 4.H
File Number: 16-0642

Type: ordinance **Version:** 1 **Status:** 1st Reading-Consent

Title

Approval of Ordinance amending Olympia Municipal Code (OMC) Chapter 9.40 Relating to Offenses Against Property by Adopting by Reference Vehicle Prowling in the Second Degree Pursuant to RCW 9A.52.100, Theft Third Degree Pursuant to RCW 9A.56.050 and Possessing Stolen Property Third Degree Pursuant to RCW 9A.56.170

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve on first reading and forward to second reading the attached ordinance amending OMC Chapter 9.40 Relating to Vehicle Prowling in the Second Degree Pursuant to RCW 9A.52.100, Theft Third Degree Pursuant to RCW 9A.56.050 and Possessing Stolen Property Third Degree Pursuant to RCW 9A.56.170.

Report

Issue:

Whether to approve the proposed ordinance.

Staff Contact:

Rocio D. Ferguson, Chief Prosecutor, 360.753.8449

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

The City of Olympia has seen an increase in the arrest of offenders for vehicle prowling, especially repeat convicted offenders. Adopting Vehicle Prowling Second Degree pursuant to RCW 9A.52.100 will permit an enhanced sentence if the person is again arrested and subsequently convicted of similar conduct in the future upon a third and subsequent conviction.

Additionally, the criminal offenses for Theft and Receiving Stolen Property currently listed in the OMC do not accurately reflect the correct valuation of property for a misdemeanor charge due to past amendments of the corresponding state statutes. To avoid having our ordinances become outdated by statutory amendments, the City of Olympia should adopt the corresponding state statutes by reference.

Neighborhood/Community Interests (if known):

There is an inherent interest in protecting the public's safety and appropriately holding offenders accountable who engage in acts of vehicle prowling, theft, and possession of stolen property.

Options:

1. Approve the attached ordinance.
2. Direct staff to modify the proposed ordinance.
3. Do not approve the ordinance.

Financial Impact:

None.

Attachments:

Proposed ordinance
RCW 9A.52.100
RCW 9A.56.060
RCW 9A.56.170

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON AMENDING CHAPTER 9.40 OF THE OLYMPIA MUNICIPAL CODE RELATING TO PROPERTY CRIMES; SPECIFICALLY REPEALING SECTIONS 9.40.040 AND 9.40.050 OF THE OLYMPIA MUNICIPAL CODE AND ADOPTING BY REFERENCE SECTIONS 9A.52.100, 9A.56.050, AND 9A.56.170 OF THE REVISED CODE OF WASHINGTON

WHEREAS, there is an inherent interest in protecting the public's property; and

WHEREAS, vehicle prowling, theft, and receiving stolen property are outdated provisions within the City's code, which do not allow enhanced sentencing for subsequent crimes of the same type and fail to appropriately value property for a misdemeanor charge; and

WHEREAS, adopting the state statutes will correct such deficiencies; and

WHEREAS, this Ordinance is adopted pursuant to Article 11, Section 11, of the Washington State Constitution and any other applicable authority;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of OMC 9.40. Olympia Municipal Code Chapter 9.40 is hereby amended to read as follows:

**Chapter 9.40
OFFENSES AGAINST PROPERTY**

9.40.000 Chapter Contents

Sections:

- 9.40.010 Definitions.
- 9.40.020 Theft. State statutes adopted by reference.
- 9.40.030 Theft on mercantile premises--Reasonable detention.
- ~~9.40.040 Receiving stolen property.~~
- ~~9.40.050 Vehicle prowling.~~
- 9.40.060 Unlawful issuance of bank check.
- 9.40.070 Criminal impersonation.
- 9.40.080 Criminal trespass.
- 9.40.090 Property damage.
- 9.40.095 Graffiti.
- 9.40.100 Bill posting and distribution--Commercial advertising.
- 9.40.115 Unlawful Balloon Releasing.
- 9.40.110 Disposal of litter--Penalty for violation.

9.40.120 Interfering with utility apparatus or public fountains.

9.40.130 Auction sales.

9.40.140 False advertising.

9.40.010 Definitions

For the purpose of this chapter certain words and terms are defined as follows:

A. "Building" means any structure, vehicle, railway car, aircraft or watercraft used for overnight lodging of persons or for carrying on of business therein.

B. "Credit card" means any instrument or device, whether incomplete, revoked or expired, whether known as a credit card, credit plate, charge plate, courtesy card, or by any other name, issued with or without fee for the use of the cardholder in obtaining money, goods, services or anything else of value, including satisfaction of a debt or the payment of a check drawn by a cardholder, either on credit or in consideration of an undertaking or guaranteed by the issuer.

C. "Damage," for the purpose of Section 9.40.090, in addition to its ordinary meaning, includes cutting, marring, injuring, defacing, spoiling, breaking or destroying any fence, sidewalk, house, building, tree, plant or other property, public or private, within the city, whether real or personal property, by any means, including the attachment of any handbills, posters or newspapers thereto; or without municipal authority, to deface, mutilate, tear down, rearrange, or destroy any signboard, street sign, public notice, poster, or post within the corporate limits of the city. Damage also includes any diminution in the value of property as a consequence of an act.

D. "Deception" occurs when an actor knowingly:

1. Creates or confirms another's false impression which the actor does not believe to be true; or
2. Fails to correct another's false impression which the actor previously has created or confirmed; or
3. Prevents another from acquiring information material to the disposition of the property involved; or
4. Promises performance which the actor does not intend to perform or knows will not be performed;
or
5. Uses a credit card without authorization or which he knows to be stolen, forged, revoked or canceled.

E. "Obtained" means:

1. In relation to property, to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or

2. In relation to labor or service, to secure performance thereof for the benefit of the obtainer or another.

F. "Owner" means a person, other than the actor, who has possession of or any other interest in the property involved, and without whose consent the actor has no authority to exert control over the property.

G. "Service" includes but is not limited to labor, professional service, transportation service, the supplying of hotel or motel accommodations, restaurant services, entertainment, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam and water.

H. "Stolen" means property obtained by theft, robbery, or extortion.

I. "Wrongful obtains" or "exerts unauthorized control" means to take the property or services of another and includes but is not necessarily limited to conduct known as "common law larceny."

9.40.020 Theft

A. ~~A person is guilty of theft if, with regard to property or services of two hundred fifty dollars or less in value, he:~~

~~1. Wrongfully obtains or exerts unauthorized control over the property or services of another or the value thereof, with intent to deprive him of such property or services; or~~

~~2. By aid of deception, he obtains control over the property or services of another or the value thereof, with intent to deprive him of such property or services; or~~

~~3. Appropriates lost or misdelivered property or services of another, or the value thereof, with intent to deprive him of such property or services.~~

~~B. In any prosecution under this section, it is an affirmative defense that the property or services were openly obtained under a claim of title made in good faith, even though the claim be untenable.~~

~~C. Theft is a gross misdemeanor.~~

9.40.020 State statutes adopted by reference.

The following sections of the Revised Code of Washington (RCW), as they appear now or are hereafter amended, are hereby adopted by reference as though fully set forth in this chapter:

RCW 9A.52.100 – Vehicle Prowling in the Second Degree

RCW 9A.56.050 – Theft in the Third Degree

RCW 9A.56.170 – Possessing Stolen Property in the Third Degree

~~9.40.030 Theft on mercantile premises—reasonable detention~~

~~In any criminal action brought by reason of any person having been detained on or in the immediate vicinity of the premises of a mercantile establishment for the purpose of investigation or questioning as to the ownership of any merchandise, it is a defense of such action that the person was detained in a reasonable manner and for not more than a reasonable time to permit such investigation or questioning by a peace officer, by the owner of the mercantile establishment, or by the owner's authorized employee or agent, and that such peace officer, owner, employee, or agent has reasonable grounds to believe that the person so detained was committing or attempting to commit theft or shoplifting on such premises of such merchandise. As used in this section, "reasonable grounds" includes, but is not limited to, knowledge that a person has concealed possession of unpurchased merchandise of a mercantile establishment, and a "reasonable time" means the time necessary to permit the person detained to make a statement or to refuse to make a statement, and the time necessary to examine employees and records of the mercantile establishment relative to the ownership of the merchandise.~~

9.40.040 Receiving stolen property

- A. A person is guilty of theft if he receives, possesses, retains or disposes of property of another, having value of two hundred fifty dollars or less, knowing that it has been stolen or consciously disregarding a substantial risk that it has been stolen, unless the property is received, retained or disposed of with purpose to restore to the owner.
- B. The fact that the person who stole the property has not been convicted, apprehended, or identified is not a defense to a charge of receiving stolen property.
- C. Receiving stolen property is a gross misdemeanor.

~~9.40.050 Vehicle prowling~~

- ~~A.—A person is guilty of vehicle prowling if, with intent to commit a crime against a person or property therein, he enters or remains in a vehicle not his own.~~
- ~~B.—Vehicle prowling is a gross misdemeanor.~~

9.40.060 Unlawful issuance of bank check

- A. Any person who, with intent to defraud, makes, or draws, or utters or delivers any check, draft or order for the payment of money in an amount of two hundred fifty dollars or less upon any bank or other depository, knowing at the time of such drawing or delivery that the maker or drawer has not sufficient funds in, or credit

with such bank or depository, in full upon its presentation, is guilty of unlawful issuance of a bank check. The word "credit" as used in this section shall be construed to mean an arrangement or understanding with the bank for the payment of such check or draft or order. The uttering or delivery of such a check, draft or order to another person, firm or corporation without such funds or credit to meet the same shall be prima facie evidence of an intent to defraud.

B. Unlawful issuance of a bank check is a gross misdemeanor.

9.40.070 Criminal impersonation

A person is guilty of criminal impersonation if he:

A. Assumes a false identity and does an act in his assumed character with the intent to defraud another or for any other unlawful purpose; or

B. Pretends to be a representative of some person or organization and does an act in his pretended capacity with the intent to defraud another or for some other unlawful purpose.

9.40.080 Criminal trespass

A. A person is guilty of criminal trespass if he or she knowingly enters or remains unlawfully in or upon the premises of another.

B. "Enter or remain unlawfully" means an unlicensed, uninvited or otherwise unprivileged entry into or remaining in or upon premises. A license or privilege to enter or remain in public premises which are only partly open to the public is not a license or privilege to enter or remain in that part of the premises which are not open to the public.

C. In any prosecution under this section, it is an affirmative defense that:

1. The actor reasonably believed that the owner of the premises, or other person empowered to license access thereto, would have licensed him or her to enter or remain; or

2. The actor was attempting to serve legal process, which includes any document required or allowed to be served upon persons or property by any statute, ordinance, governmental rule or regulation, or court order, excluding delivery by the mails of the United States. This defense is available only if the actor did not enter into a private residence or other building not open to the public and the entry onto the premises was reasonable and necessary for service of the legal process.

D. If the court finds that the accused committed criminal trespass pursuant to the provisions of this section and if the court receives sufficient evidence that the acts committed leading to that finding were intentionally targeted against the victim or victims in substantial part because of the victim's or victims' race, color, religion, ancestry, national origin, gender, sexual orientation, or his/her/their mental, physical or sensory disability, or

the accused's perception thereof, the court shall impose a minimum fine of not less than five hundred dollars and a minimum jail sentence of not less than five days for each such offense. Neither the mandatory minimum jail sentence nor the mandatory minimum fine shall be suspended or deferred, nor shall the jail sentence be served by alternative means.

E. Any person convicted under this section where the court receives sufficient evidence that the person's acts were targeted as described in subsection (D) above shall be guilty of a gross misdemeanor.

9.40.090 Property damage

A. A person is guilty of property damage if the person intentionally causes physical damage to the property of another.

B. If the court finds that the accused committed criminal trespass pursuant to the provisions of this section and if the court receives sufficient evidence that the acts committed leading to that finding were intentionally targeted against the victim or victims in substantial part because of the victim's or victims' race, color, religion, ancestry, national origin, gender, sexual orientation, or his/her/their mental, physical or sensory disability, or the accused's perception thereof, the court shall impose a minimum fine of not less than five hundred dollars and a minimum jail sentence of not less than five days for each such offense. Neither the mandatory minimum jail sentence nor the mandatory minimum fine shall be suspended or deferred, nor shall the jail sentence be served by alternative means.

C. Any person convicted under this section where the court receives sufficient evidence that the person's acts were targeted as described in subsection (B) above shall be guilty of a gross misdemeanor.

D. "Physical damage," in addition to its ordinary meaning, includes the total or partial alteration, damage, obliteration or erasure of records, information, data, computer programs or their computer representation, which are recorded for use in computers or the impairment, interruption or interference with the use of such records, information, data or computer programs; or the impairment, interruption or interference with the use of any computer or services provided by computers. "Physical damage" also includes any diminution in the value of any property, real or personal, as a consequence of an act.

E. Property damage is a gross misdemeanor punishable as described in OMC 9.64.010.

9.40.095 Graffiti.

A. A person is guilty of graffiti if, without prior consent of the owner or owner's agent, the person intentionally writes, paints, or draws any inscription, figure, or mark of any type on any public or private building or other structure or any real or personal property owned by any other person.

B. Graffiti is a gross misdemeanor punishable as described in OMC 9.64.010.

9.40.100 Bill posting and distribution –Commercial advertising

It is unlawful for any person to post or attach any bills, handbills, posters, newspapers or other papers of a purely commercial advertising nature on any post, fence, tree, building or other structure, except upon billboards or other structures erected for that purpose. It is further unlawful to hand out, distribute, or scatter any such commercial advertising upon the streets, alleys or other public places of the city, or to throw them in the yards of the city, or to place them in or upon automobiles without the consent of the owner.

9.40.110 Disposal of litter –Penalty for violation

No person shall throw, drop, deposit, discard, or otherwise dispose of litter, as that term is defined in RCW 70.93.030 (4), upon any public property within the city or upon private property within the city not owned by him or in the waters of the city whether from a vehicle or otherwise, including but not limited to any sidewalk, street, alley, highway or park, except:

- A. When such property is designated by the city for the disposal of garbage and refuse, and such person is authorized to use such property for such purpose;
- B. Into a litter receptacle in such a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of such private or public property or waters;
- C. Any person violating any provisions of this section is guilty of a misdemeanor and the fine or bail forfeiture for such violation shall not be less than ten dollars for each offense, and, in addition thereto, in the sound discretion of the judge, such person may be directed by the judge to pick up and remove from any public place or private property, with prior permission of the legal owner, upon which it is established by competent evidence that such person has deposited litter.

9.40.115 Unlawful Balloon Releasing

It is unlawful to intentionally release or cause to be released any balloon, with or without attachments, any part of which balloon or its attachments are made from a non biodegradable material, and which balloon is filled with a lighter-than-air gas. Anyone convicted of this misdemeanor shall be punished by a fine of no more than \$100.

9.40.120 Interfering with utility apparatus or public fountains

- A. It is unlawful for any person to cut, alter, change, remove, disconnect or connect with, or in any manner interfere, meddle or tamper with any water main, pipe, stopcock on a meter hydrant, pump or conduit, or any gas pipe, main or meter, or any electrical wire, cable or conduit owned or used by the city or by any private owner, without the permission or consent of the proper city officials or of the private owner or owners.

B. It is unlawful to obstruct, divert, hinder, tamper with, pollute, or interfere with any public spring or fountain within the city.

9.40.130 Auction sales

A. Record of Facts. In addition to the requirements of RCW Chapter 18.12, before an auction sale is held within the city, the auctioneer or the owner of the merchandise to be sold shall provide the city clerk-treasurer a full and complete record in ink of the following facts concerning such property:

1. A description of each and every article of goods, wares and merchandise to be sold;
2. The name and the address of the owner of such property, together with the name and residence of the person, firm or corporation from whom such property was purchased;
3. As and when such property is sold at auction, a complete and detailed list shall be kept showing the date, article, and price paid for such article, and to whom it was sold;
4. Such records shall be kept at the place of business of any auctioneer conducting a sale within the city for a period of at least two years after the date of holding such sale, and shall be subject to inspection by the police of the city.

B. False Representation Unlawful. No auctioneer shall make any false representation, or permit to be made any false representation over his name or by those within his employ, as to the character, condition, value, or present or previous ownership of any property offered for sale, nor substitute any other article for an article sold, nor make any false statement as to the name and amount for which any article is sold, and shall not permit any person to act as his accomplice or capper for the purpose of making mock bids at any auction.

C. Time Limit. All auction sales shall close not more than ten days from the date of the beginning of such sale, and no auction shall be held by any merchant more often than once a year within the city.

D. Exceptions. The provisions of this section shall not apply to auctions of real estate, livestock, perishable fruits and produce, nor to the auction of a complete stock as a whole, nor to sales by judicial officers or by public officers held in the manner prescribed by law, nor to sales of used household furniture and effects, nor to sales by an executor, administrator, or guardian.

E. Notice that Purchases may be Returned. With regard to the sale of jewelry or appliances as those terms are defined in RCW 18.12.010, the auctioneer shall cause to be displayed in a prominent place on the premises where the auction is being conducted a notice allowing the return of an item in the same condition as when purchased, for the amount paid, if returned within forty-eight hours from the time of purchase. The notice shall be of sufficient size as to be readily discernible by the bidders.

9.40.140 False advertising

A. The publishing, circulating or placing before the public, or causing directly or indirectly to be made, published or circulated, or placed before the public in the city, in a newspaper, handbill, poster, circular, pamphlet, or other notice or publication, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to the public, which advertising contains any assertion, representation, or statement of fact which is untrue, deceptive or misleading, with the intent to increase the consumption of, or to induce the public in any manner to enter into any obligation relating to, or to acquire any interest or title in such merchandise, securities or services shall be considered false advertising.

B. It is unlawful for any person, firm or corporation to do or carry on, or to permit to be done or carried on, any false advertising in the city; provided, however, that this shall not apply to the owner or publisher of a newspaper publishing such advertisements in good faith and without knowledge of the falsity thereof.

Section 3. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 4. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 5. Effective Date. This ordinance shall take effect five (5) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:

RCWs > Title 9A > Chapter 9A.52 > Section 9A.52.100**9A.52.095** << 9A.52.100 >> **9A.52.110****RCW 9A.52.100****Vehicle prowling in the second degree.**

(1) A person is guilty of vehicle prowling in the second degree if, with intent to commit a crime against a person or property therein, he or she enters or remains unlawfully in a vehicle other than a motor home, as defined in RCW **46.04.305**, or a vessel equipped for propulsion by mechanical means or by sail which has a cabin equipped with permanently installed sleeping quarters or cooking facilities.

(2) Except as provided in subsection (3) of this section, vehicle prowling in the second degree is a gross misdemeanor.

(3) Vehicle prowling in the second degree is a class C felony upon a third or subsequent conviction of vehicle prowling in the second degree. A third or subsequent conviction means that a person has been previously convicted at least two separate occasions of the crime of vehicle prowling in the second degree.

(4) Multiple counts of vehicle prowling (a) charged in the same charging document do not count as separate offenses for the purposes of charging as a felony based on previous convictions for vehicle prowling in the second degree and (b) based on the same date of occurrence do not count as separate offenses for the purposes of charging as a felony based on previous convictions for vehicle prowling in the second degree.

[**2013 c 267 § 1; 2011 c 336 § 376; 1982 1st ex.s. c 47 § 14; 1975 1st ex.s. c 260 § 9A.52.100.**]

NOTES:

Severability—1982 1st ex.s. c 47: See note following RCW **9.41.190**.

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RCW 9A.56.050

Theft in the third degree.

(1) A person is guilty of theft in the third degree if he or she commits theft of property or services which (a) does not exceed seven hundred fifty dollars in value, or (b) includes ten or more merchandise pallets, or ten or more beverage crates, or a combination of ten or more merchandise pallets and beverage crates.

(2) Theft in the third degree is a gross misdemeanor.

[[2009 c 431 § 9](#); [1998 c 236 § 4](#); [1975 1st ex.s. c 260 § 9A.56.050](#).]

NOTES:

Applicability—2009 c 431: See note following RCW [4.24.230](#).

Civil action for shoplifting by adults, minors: RCW [4.24.230](#).

Property crime database, liability: RCW [4.24.340](#).

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[9A.56.160](#) << [9A.56.170](#) >> [9A.56.180](#)

RCW 9A.56.170

Possessing stolen property in the third degree.

(1) A person is guilty of possessing stolen property in the third degree if he or she possesses (a) stolen property which does not exceed seven hundred fifty dollars in value, or (b) ten or more stolen merchandise pallets, or ten or more stolen beverage crates, or a combination of ten or more stolen merchandise pallets and beverage crates.

(2) Possessing stolen property in the third degree is a gross misdemeanor.

[[2009 c 431 § 14](#); [1998 c 236 § 2](#); [1975 1st ex.s. c 260 § 9A.56.170](#).]

NOTES:

Applicability—2009 c 431: See note following RCW [4.24.230](#).

Property crime database, liability: RCW [4.24.340](#).

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City Council

Approval of Ordinance Amending Olympia Municipal Code (OMC) Chapter 9.08 Relating to Obstructing a Public Servant or Officer and Making a False or Misleading Statement to a Public Servant

Agenda Date: 5/17/2016
Agenda Item Number: 4.1
File Number: 16-0644

Type: ordinance **Version:** 1 **Status:** 1st Reading-Consent

Title

Approval of Ordinance Amending Olympia Municipal Code (OMC) Chapter 9.08 Relating to Obstructing a Public Servant or Officer and Making a False or Misleading Statement to a Public Servant

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve on first reading and forward to second reading the proposed ordinance amending OMC Chapter 9.08 Relating to Obstructing a Public Servant or Officer and Making a False or Misleading Statement to a Public Servant.

Report

Issue:

Whether to approve the proposed ordinance.

Staff Contact:

Rocio D. Ferguson, Chief Prosecutor, 360.753.8449

Presenter(s):

None - Consent Calendar Item

Background and Analysis:

The Olympia Municipal Code relating to Obstructing a Public Servant or Officer currently combines two separate criminal acts into OMC 9.08.020. The behavior of obstructing an officer by hindering or delaying an investigation and the behavior of making a false statement to a public servant are separate criminal acts, yet court records from Olympia cases do not currently distinguish the criminal behavior that was charged.

Neighborhood/Community Interests (if known):

There is an inherent interest in having court records accurately identify criminal behavior.

Options:

1. Approve the proposed ordinance.
2. Direct staff to modify the proposed ordinance.
3. Do not approve the proposed ordinance.

Financial Impact:

None.

Attachments:

Proposed ordinance.

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON AMENDING OLYMPIA MUNICIPAL CODE CHAPTER 9.08 RELATED TO OFFENSES AGAINST GOVERNMENT; SPECIFICALLY AMENDING SECTION 9.08.020, OBSTRUCTING A PUBLIC SERVANT OR OFFICER, AND ADDING A NEW SECTION 9.08.025 RELATED TO MAKING A FALSE STATEMENT TO A PUBLIC SERVANT

WHEREAS, the Olympia Municipal Code (OMC) section related to Obstructing a Public Servant should be bifurcated to more clearly identify the conduct being charged; and

WHEREAS, by amending OMC Section 9.08.020 (Obstructing) and adding Olympia Municipal Code Section 9.08.025 (False Statement), charging documents and criminal history records will more clearly identify the criminal behavior; and

WHEREAS, this Ordinance is adopted pursuant to Article 11, Section 11, of the Washington State Constitution;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of OMC 9.08. Chapter 9.08 of the Olympia Municipal Code is hereby amended to read as follows:

**Chapter 9.08
OFFENSES AGAINST GOVERNMENT**

9.08.000 Chapter Contents

Sections:

- 9.08.010 Definitions.
- 9.08.020 Obstructing a public servant or officer.
- 9.08.025 Making a false or misleading statement to a public servant.
- 9.08.030 Hindering a law enforcement official.
- 9.08.040 Resisting arrest.
- 9.08.050 Rescue from official detention
- 9.08.055 Introducing contraband into jail.
- 9.08.060 Escape.
- 9.08.065 Bail Jumping.
- 9.08.070 False reporting.
- 9.08.080 Refusing to summon aid for a police officer.
- 9.08.090 Misrepresentation as policeman.

9.08.010 Definitions

For the purposes of this chapter "Official detention" means:

- A. Restraint pursuant to a lawful arrest for an offense; or
- B. Lawful confinement in the city jail; or
- C. Custody for purposes incident to the foregoing, including but not necessarily limited to:
 - 1. Transportation, or
 - 2. Medical diagnosis or treatment, or
 - 3. Court appearances, or
 - 4. Work and recreation.

9.08.020 Obstructing a public servant or officer

A person is guilty of obstructing a public servant or officer if he/she intentionally resists, delays or obstructs a person whom he/she knows is a public servant or officer and such servant or officer is acting in a governmental function capacity. ~~This section includes intentionally making untrue or misleading statements or reports to a public servant or officer.~~

9.08.025 Making a false or misleading statement to a public servant

A person who knowingly makes a false or misleading material statement to a public servant is guilty of a gross misdemeanor. "Material statement" means a written or oral statement reasonably likely to be relied upon by a public servant in the discharge of his or her official powers or duties.

9.08.030 Hindering a law enforcement official

A person is guilty of hindering a law enforcement official if he/she intentionally:

- A. Prevents, hinders or delays the apprehension or prosecution of a suspected violator who the person knows or has probable cause to suspect:
 - 1. Has committed a crime or juvenile offense; or
 - 2. Is being sought by law-enforcement officials for the commission of a crime or juvenile offense; or
 - 3. Has escaped from official detention; or
- B. Harbors or conceals a suspected violator; or

- C. Warns a suspected violator of impending discovery or apprehension; or
- D. Provides a suspected violator with money or transportation, disguise or other means of avoiding discovery or apprehension or a weapon; or
- E. Conceals, alters or destroys any physical evidence that might aid in the discovery or apprehension of a suspected violator; or
- F. Interferes with, hinders or delays a police dog while it is being used to track, pursue, detain, or apprehend a suspected violator as defined in subsection A of this section.

9.08.040 Resisting arrest

A person is guilty of resisting arrest if he intentionally prevents or attempts to prevent a peace officer from arresting him.

9.08.050 Rescue from official detention

It is unlawful for any person to rescue or attempt to rescue any person from official detention or aid or attempt to aid the escape of any person from any such detention or to advise or encourage any such escape, or to supply any person being subject to such detention with any weapon or any implement or means of escape.

9.08.055 Introducing contraband into jail

- A. A person is guilty of introducing contraband if he or she knowingly and unlawfully:
 - 1. Provides contraband to any person detained in a detention facility; or
 - 2. Introduces contraband into a detention facility for his or her own use.
- B. "Contraband" as used in this section means any intoxicating substances, tobacco, matches, lighters or drug paraphernalia.
- C. Introducing contraband is a misdemeanor.

9.08.060 Escape

A person is guilty of escape if, without lawful authority, he intentionally removes himself from official detention or fails to return to official detention following temporary leave granted for a specified purpose of a limited period.

9.08.065 Bail Jumping

- A. Any person having been released by court order or released on bail with knowledge of the requirement of a subsequent personal appearance before the Municipal Court, and who fails to appear is guilty of bail jumping.
- B. Any person having been released by court order or released on bail with knowledge of the requirement to report as directed by the court for service of sentence, and who fails to appear or to surrender for service of sentence as required is guilty of bail jumping.
- C. It is an affirmative defense to a prosecution under this section, that the defendant must prove by a preponderance of the evidence, that uncontrollable circumstances prevented the person from appearing or surrendering, and that the person did not contribute to the creation of such circumstances in disregard of the requirement to appear or surrender, and that the person appeared or surrendered without delay as soon as such circumstances ceased to exist.
- D. Bail jumping is a misdemeanor punishable by up to 90 days in jail and a fine of \$1,000.

9.08.070 False reporting

Every person who knowingly initiates or circulates a false report or warning of an alleged or impending occurrence of a fire, explosion, crime, catastrophe or other emergency is guilty of false reporting.

9.08.080 Refusing a summon aid for a police officer

It is unlawful for a person to refuse to summon aid for a police officer of the city if, upon request by a person he knows, or should reasonably know, to be a peace officer, he unreasonably refuses or fails to summon aid for such officer.

9.08.090 Misrepresentation as policeman

It is unlawful for any person, not being a member of the police force of the city or a special policeman appointed in accordance with the ordinances of the city, to willfully or knowingly represent to any person that he is a policeman, police officer, city detective or any other member of the police force of the city.

Section 2. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 3. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 4. Effective Date. This Ordinance shall take effect five (5) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:



City Council

Approval of Ordinance Amending Olympia Municipal Code (OMC) Chapter 9.24 Relating to Crimes Against Public Decency by Adopting the Crime of Indecent Exposure Pursuant to RCW 9.88.010

Agenda Date: 5/17/2016
Agenda Item Number: 4.J
File Number: 16-0645

Type: ordinance **Version:** 1 **Status:** 1st Reading-Consent

Title

Approval of Ordinance Amending Olympia Municipal Code (OMC) Chapter 9.24 Relating to Crimes Against Public Decency by Adopting the Crime of Indecent Exposure Pursuant to RCW 9.88.010

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to on first reading and forward to second reading the proposed ordinance amending OMC Chapter 9.24 Relating to Crimes Against Public Decency by Adopting the Crime of Indecent Exposure Pursuant to RCW 9.88.010.

Report

Issue:

Whether to approve the proposed ordinance.

Staff Contact:

Rocio D. Ferguson, Chief Prosecutor, 360.753.8449

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

The City of Olympia has seen an increase in the arrest of offenders for lewd conduct whose actions would constitute indecent exposure pursuant to RCW 9A.88.101. The creation of a municipal ordinance for indecent exposure which mirrors RCW 9A.88.101 will permit a potential enhanced sentence if the person is again arrested and subsequently convicted of similar conduct in the future. Those who engage in indecent exposure often have higher risks of reoffending and triggers of sexual deviance so as to justify an enhanced sentence upon second and subsequent convictions of indecent

exposure.

Neighborhood/Community Interests (if known):

There is an inherent interest in protecting the public's safety and appropriately holding accountable sexual offenders who engage in acts of public indecency.

Options:

1. Adopt the proposed ordinance.
2. Direct staff to modify the proposed ordinance.
3. Do not adopt the proposed ordinance.

Financial Impact:

None.

Attachments:

Proposed ordinance
RCW 9.88.010

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON AMENDING OLYMPIA MUNICIPAL CODE CHAPTER 9.24 RELATING TO CRIMES AGAINST PUBLIC DECENCY BY ADOPTING BY REFERENCE SECTION 9A.88.010 OF THE REVISED CODE OF WASHINGTON

WHEREAS, there is an inherent interest in protecting the public's safety and appropriately sentencing repeat offenders who engage in acts of public indecency; and

WHEREAS, there has been an increase in the arrest of offenders for lewd conduct whose actions would constitute indecent exposure pursuant to RCW 9A.88.010; and

WHEREAS, those who engage in acts of indecent exposure have higher risks of recidivism and sexual deviancy so as to justify an enhanced sentence for repeat offenders; and

WHEREAS, adoption of RCW 9A.88.010 will permit a potential enhanced sentence if the person is again arrested and subsequently convicted of similar conduct in the future; and

WHEREAS, this Ordinance is adopted pursuant to Article 11, Section 11, of the Washington State Constitution and any other applicable authority;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of OMC 9.24. Chapter 9.24 of the Olympia Municipal Code is hereby amended to read as follows:

Chapter 9.24
OFFENSES AGAINST PUBLIC DECENCY

9.24.000 Chapter Contents

Sections:

- 9.24.010 Definitions.
- 9.24.020 Prostitution.
- 9.24.030 Prostitution loitering.
- 9.24.040 Promoting prostitution.
- 9.24.050 Patronizing a prostitute.
- 9.24.060 Prostitution and patronizing a prostitute –No defense.
- 9.24.070 Permitting prostitution.
- 9.24.080 Body studios and on-premises dating services.
- 9.24.090 Urinating in public.
- 9.24.100 Displaying erotic material.
- 9.24.110 Lewd conduct.
- 9.24.120 State statute adopted by reference.

9.24.010 Definitions

For the purpose of this chapter, certain words and terms are defined as follows:

A. Commit prostitution means to engage in sexual conduct for a fee but does not include sexual conduct engaged in as part of any stage performance, play or other entertainment open to the public.

B. "Erotic material" means motion pictures, photographs, pictures, printed material and other such objects depicting:

1. Human sexual intercourse;
2. Masturbation;
3. Sodomy (i.e., bestiality or oral or anal intercourse);
4. Direct physical stimulation of unclothed genitals;
5. Flagellation or torture in the context of sexual relationships; or
6. An emphasized depiction of bare adult human genitals; provided, however, that this definition applies only to those works which, applying the average standards of the city, taken as a whole appeal to the prurient interest of persons and which lack serious literary, artistic, political or scientific value.

C. "Known prostitute or panderer" means a person who within one year previous to the date of arrest for violation of this section, has within the knowledge of the arresting officer been convicted of an offense involving prostitution.

D. Lewd act means public:

1. Exposure of one's anus, genitals or female breasts; or
2. Touching, caressing or fondling of the anus, genitals or female breasts; or
3. Sexual conduct, as defined by subsection F of this section; provided, however, that this definition applies only to those works which, applying the average standards of the city, taken as a whole appeal to the prurient interest of persons and which lack serious literary, artistic, political or scientific value.

E. Public place means an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the public, whether or not limited to persons over a specified age, including those which serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

F. "Sexual conduct" means:

1. Sexual intercourse within its ordinary meaning, occurring upon any penetration, however slight; or
2. Any penetration of the vagina or anus, however slight, by an object, when committed by one person on another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes; or
3. Any contact between persons involving the sex organs of one person and the mouth or anus of another, whether such persons are of the same or opposite sex; or
4. Masturbation, manual or instrumental, of one person by another; or
5. Flagellation or torture in the context of a sexual relationship.

9.24.020 Prostitution

A. A person is guilty of prostitution if he engages in or agrees or offers to engage in sexual conduct with another person in return for a fee.

B. This section shall not apply to sexual conduct engaged in as part of a stage performance, play or other entertainment open to members of the public.

9.24.030 Prostitution loitering

A. A person is guilty of prostitution loitering if he remains in a public place and intentionally solicits, induces, entices, or procures another to commit prostitution.

B. Among the circumstances which may be considered in determining whether the actor intends such prohibited conduct are that he:

1. Repeatedly beckons to, stops or attempts to stop, or engages a passerby in conversation; or
2. Repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or other bodily gestures; or
3. Is a known prostitute or panderer.

9.24.040 Promoting prostitution

A person is guilty of promoting prostitution if:

A. Acting other than as a prostitute or as a customer thereof, he knowingly:

1. Causes or aids a person to commit or engage in prostitution, or
2. Procures or solicits customers for prostitution, or
3. Provides persons or premises for prostitution purposes, or
4. Operates or assists in the operation of a house of prostitution or a prostitution enterprise, or
5. Engages in any other conduct designed to institute, aid or facilitate an act or enterprise of prostitution; or

B. Acting other than as a prostitute receiving compensation for personally rendered prostitution services, he accepts or receives money or other property pursuant to an agreement or understanding with a person whereby he participates or is to participate in the proceeds of prostitution activity.

9.24.050 Patronizing a prostitute

A person is guilty of patronizing a prostitute if:

- A. Pursuant to prior understanding, he pays a fee to another person as compensation for such person or a third person having engaged in sexual conduct with him;
- B. He pays or agrees to pay a fee to another person pursuant to an understanding that, in return therefor, such person will engage in sexual conduct with him;
- C. He solicits or requests another person to engage in sexual conduct with him in return for a fee.

9.24.060 Prostitution and patronizing a prostitute –No defense

In any prosecution for prostitution or patronizing a prostitute, the sex of the two parties or prospective parties to the sexual conduct engaged in, contemplated or solicited is immaterial, and it is no defense that:

- A. Such persons were of the same sex;
- B. The person who received, agreed to receive or solicited a fee was a male and the person who paid or agreed or offered to pay such fee was a female.

9.24.070 Permitting prostitution

A person is guilty of permitting prostitution if, having possession or control of premises which he knows are being used for prostitution purposes, he fails to make reasonable effort to halt or abate such use.

9.24.080 Body studios and on-premises dating services

A. Prohibited. It is unlawful for any person to operate, conduct, maintain, participate in or advertise a body studio or on-premises dating service, as defined in this section, or to knowingly be employed, participate in or conduct any business on the premises of a body studio or on-premises dating service.

B. Body Studio Defined. As used in this section, a "body studio" is any premises, other than a massage parlor as defined in Chapter 5.44 of this code, and licensed as such, upon which is furnished for a fee or charge the opportunity to paint, massage, feel, handle or touch the unclothed body or unclothed portion of the body of another person with intent to arouse the prurient interest of any person, or to be so painted, massaged, felt, handled or touched by another person, or to observe or photograph any such activity. This includes any such premises which is advertised or represented to be a body painting studio, model studio, sensitivity awareness studio, communications center or any other such characterization and which leads to a reasonable belief that there will be furnished on such premises for a fee or charge the opportunity to paint, massage, feel, handle, or touch the unclothed body or an unclothed portion of the body of another person with intent to arouse the prurient interest of any person, or to be so painted, massaged, felt, handled or touched by another person, or to observe, view or photograph any such activity.

C. On-premises Dating Service Defined. "On-premises dating service" means any premises which is advertised or represented as, or is, a dating service or studio or any other expression or characterization which conveys the same or similar meaning, and which renders its services on its premises, and leads to the reasonable belief that there will be furnished on such premises for a fee or charge the opportunity to massage, feel, handle, caress or touch the unclothed body or unclothed portion of the body of another person with intent to arouse the prurient interest of any person, or to be so massaged, felt, handled, touched or caressed by another person.

9.24.090 Urinating in public

It is unlawful for any person to urinate or defecate in a public place other than a washroom or toilet room or other facility specifically designated and intended for that use.

9.24.100 Displaying erotic material

A person who, having knowledge of the contents thereof, knowingly places, or causes another to place, for sale or otherwise, erotic material upon display in a public place or knowingly fails to take prompt action to remove such public display from property in his possession after learning of its existence is guilty of displaying erotic material; provided, however, the display of written material depicting the activity enumerated in subsection B1 of Section 9.24.010 will not by itself constitute an offense.

9.24.110 Lewd conduct

A. A person is guilty of lewd conduct if he intentionally performs a lewd act in a public place or at a place and under circumstances where such act could be observed by any member of the public.

B. The owner, manager or operator of premises open to the public is guilty of permitting lewd conduct if he intentionally permits or causes any lewd act on the premises.

C. A violation of this section is a gross misdemeanor.

9.40.120 State statute adopted by reference

The following section of the Revised Code of Washington, as it appears now or is hereafter amended, is hereby adopted by reference as though fully set forth in this chapter:

RCW 9A.88.010- Indecent Exposure

Section 2. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 3. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 5. Effective Date. This Ordinance shall take effect five (5) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:

[RCWs](#) > [Title 9A](#) > [Chapter 9A.88](#) > [Section 9A.88.010](#)

[Beginning of Chapter](#) << [9A.88.010](#) >> [9A.88.030](#)

RCW 9A.88.010

Indecent exposure.

(1) A person is guilty of indecent exposure if he or she intentionally makes any open and obscene exposure of his or her person or the person of another knowing that such conduct is likely to cause reasonable affront or alarm. The act of breastfeeding or expressing breast milk is not indecent exposure.

(2)(a) Except as provided in (b) and (c) of this subsection, indecent exposure is a misdemeanor.

(b) Indecent exposure is a gross misdemeanor on the first offense if the person exposes himself or herself to a person under the age of fourteen years.

(c) Indecent exposure is a class C felony if the person has previously been convicted under this section or of a sex offense as defined in RCW [9.94A.030](#).

[[2003 c 53 § 92](#); [2001 c 88 § 2](#); [1990 c 3 § 904](#); [1987 c 277 § 1](#); [1975 1st ex.s. c 260 § 9A.88.010](#).]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW [2.48.180](#).

Acknowledgment—Declaration—Findings—2001 c 88: See note following RCW [43.70.640](#).

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW [18.155.900](#) through [18.155.902](#).

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City Council

Approval of 2016 Neighborhood Matching Grant Allocation

Agenda Date: 5/17/2016
Agenda Item Number: 6.A
File Number: 16-0614

Type: decision **Version:** 1 **Status:** Other Business

Title

Approval of 2016 Neighborhood Matching Grant Allocation

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve Neighborhood Matching Grant Amounts, contingent on negotiation of agreements with respective neighborhood associations to complete each project in 2016.

Report

Issue:

Whether to approve recommended funding for 2016 matching grants for 10 Recognized Neighborhood Associations (see attached Recommendations for Funding).

Staff Contact:

Anna Schlecht, Neighborhood Match Grant Program Manager, Community Planning & Development (CPD), 360.753.8183

Presenter(s):

Julie Hankins, Council member and NMG Review Team Chair
Anna Schlecht, Neighborhood Match Grant Program Manager

Background and Analysis:

The Neighborhood Matching Grant program helps Olympians help themselves by providing matching funds for community projects.

When the program was established, the Olympia City Council stated that its goal is *“to encourage projects that foster civic pride, enhance and beautify neighborhoods, expand citizen involvement, and promote the interests of the Olympia community. To accomplish this goal, the Olympia City Council will make available grant funds to Recognized Neighborhood Associations up to a 50/50 matching basis. The City Council firmly believes that community participation and commitment to accomplish improvements within our City are mutually beneficial to all Olympia residents.”*

For 2016, the City Council approved a budget of up to \$23,000 to be used for the Neighborhood Matching Grant program. All Recognized Neighborhood Associations (RNAs) in good standing were invited to apply for grant funds. The deadline for submittal was March 1, 2016. The City received 14 applications from 13 different RNAs totaling approximately \$35,500.00 in requested matching grants from the City.

Review of the applications was handled by a team of four (4) raters who used the six (6) criteria provided with the application to assess each application. The review team consisted of the following people:

- **Council member** Julie Hankins (former Coalition of Neighborhoods President);
- **Olympia Building Official** Todd Cunningham
- **Olympia Parks Deputy Director** David Hanna
- **Olympia Public Works Senior Transportation Program Specialist** Michelle Swanson

The criteria used for review were that the application demonstrated that the project:

1. Will result in a direct and lasting environmental benefit to the neighborhood and/or wider community,*
2. Will foster community engagement and enrichment opportunities,*
3. Is ready to begin after funding has been approved,
4. Is likely to be completed by December 31, 2016,
5. Is easily accomplished with volunteers, and
6. Does not require extensive City staff involvement to be completed successfully.

* Weighted double because they speak directly to the City Council's goals for the program as described above.

The resulting ranking of projects is provided in the **attached Recommendations for Funding**.

Because the requested amount of grant funds is well over the amount of funds approved for this year's grant projects, City staff recommends approval of funding for the top 10 projects, with some grants recommended at a lower amount than that requested. **Attached** is a summary of all projects, including reasons for recommended alterations to grant amounts. Full copies of proposals are also available for review in the City Council's office.

Neighborhood/Community Interests (if known):

As demonstrated by the large number of applications, there is strong interest among Neighborhood Associations in this program. The wider community of Olympia is strengthened by the environmental health and vitality of its neighborhoods. The proposed projects provide environmental, aesthetic, and community engagement benefits to City residents and businesses.

Options:

Note: All options would be contingent on negotiation of agreements with respective neighborhood associations to complete each project in 2016.

1. Approve the Neighborhood Matching Grants as listed in the attached Recommendations for

Funding.

2. Approve partial or full funding of a subset of grant requests which the Council sees as consistent with the goals of the program.
3. Provide additional funding and staff resources and approve all projects for which applications were received.

Financial Impact:

The 2016 budget provides up to \$23,000 to be used for the Neighborhood Matching Grant program. If all recommended matching grants are approved, the total City match would fall within the budgeted amount.

The estimated staff time to support each matching grant ranges from 20 to 60 hours, totaling 200-600 staff hours for the 10 recommended projects.

ATTACHMENT #1

2016 Olympia Neighborhood Match Grant Program – Recommendations for Funding

The Olympia Neighborhood Match Grant Program reviewed 14 applications and developed the following recommendations for funding. Recommendations will be forwarded to the Council for review and final action at the Council meeting tentatively scheduled for May 17, 2016. Following is a breakdown of applications showing ranking, total project value, the match amount, requested grant amount and award amounts. *Please note:* applications recommended for funding shown unshaded, applications not recommended for funding shown shaded in grey.

Review Team Rank #	RNA	Project	Total Project Value	RNA Match Amount	Requested Grant Amount	Recommended Grant Amount
	RECOMMENDED					
2	Bigelow Neighborhood Association (NA)	Tree planting; sign; picnic table platform	\$8,278	\$4,623	\$3,655	\$3,575
7	Bigelow Highlands NA	Signs & landlord mailing	\$1,244*	\$415*	\$829	\$811
8	Devon Place NA	Filtration pond improvements	\$4,000	\$2,000	\$2,000	\$1,956
10	East Bay NA	Rose St revegetation plan	\$4,076	\$2,076	\$2,000	\$1,956
3	Ken Lake NA	Entrance island rehabilitation	\$8,890	\$5,454	\$3,436	\$3,360
6	Marie's Vineyard NA	Tree trimming, sign replacement	\$3,000	\$1,500	\$1,500	\$1,467
4	Northeast NA	Love Our Local Festival	\$11,500	\$10,000	\$1,500	\$1,467
1	Northwest Olympia NA	Pathway & open space	\$28,620	\$27,120	\$1,500	\$1,497
5	Northwest Olympia NA	Mural at Westside OPD station	\$7,763	\$5,665	\$2,098	\$2,052
9	South Capital NA	Street banner project	\$15,518	\$10,518	\$5,000	\$4,889
		SUB-TOTALS	\$92,888	\$69,371	\$23,518	\$23,000
	NOT RECOMMENDED					
13	Gold Crest NA	Vista & Beautification Project	\$7,251	\$3,751	\$3,751	0
12	NE & East Bay NA's	San Francisco hillside stabilization	\$7,000	\$3,500	\$3,500	0
14	Olympia DT Assn.	Mural: 2016 Canoe Journey	\$7,000	\$3,500	\$3,500	0
11	Ward Lake NA	Neighborhood sign	\$2,220	\$1,110	\$1,110	0
		SUB-TOTAL	\$23,471	\$11,861	\$11,861	0
		GRAND TOTALS	\$116,360	\$81,232	\$35,379	\$23,000

***CORRECTION:** Bigelow Highlands NA will provide an actual total of 31 hours volunteer labor valued at \$828.32 = actual project total of \$1,639.32
MORE INFORMATION: Anna Schlecht, Olympia Neighborhood Match Grant Program Manager – aschlech@ci.olympia.wa.us 360-753-8183

Attachment 2

2016 Neighborhood Matching Grant Program
Project Descriptions (Alphabetical by Neighborhood)

1) Bigelow Neighborhood Association (NA) – Trees, Sign & Picnic Table Pad

Project Ranking: 2
Neighborhood Match \$4,623
Grant Requested: \$3,655
Grant Recommended: \$3,575
Partners/Contractors: Bigelow House Museum, Olympia Historical Society, City of Olympia

The neighborhood is requesting funding to do the following: **1) Heirloom Trees:** continue with the process of planting the Heirloom Orchard behind the Bigelow House (located at 918 Glass St NE, Olympia); **2) Historic Sign:** Place a historic sign at the top of Bigelow Springs Park hill which will display a panorama photograph of Olympia taken near this spot in 1909; and, **3) Pad for Picnic Table:** Build a picnic table for an existing picnic table in Bigelow Springs Park. These projects are intended to engage the community in caring for the Daniel Bigelow House Museum and this neighborhood park, and increase the enjoyment of all museum visitors and park users.

2) Bigelow Highlands NA – Sandwich Board Signs & Land Lord Mailing

Project Ranking: 7
Neighborhood Match \$415*
Grant Requested: \$829
Grant Recommended: \$811
Partners/Contractors: Neighbors and other volunteers

The aim of this project is to increase neighborhood communications and engagement with the BHN residents and landlords through two strategic projects: **1) Sandwich signboards:** Design and produce sandwich board signs that will increase resident awareness and involvement with BHNA; and, **2) Landlord mailing:** increase communication of BHNA issues and events with BHN landlords and property owners. The BHN is comprised of approximately 40% rental property owners.

**Please Note: the actual Neighborhood match will be 31 volunteer hours valued at \$828.32*

3) Devon Place NA – Filtration Pond Improvements

Project Ranking: 8
Neighborhood Match \$2,000
Grant Requested: \$2,000
Grant Recommended: \$1,956
Partners/Contractors: Neighbors and other volunteers

Attachment 2

Funding will be utilized for the much loved filtration pond, which offers a natural wildlife habitat within their suburban neighborhood. The pond is in need of clearing out rotten trees; grass being overtaken by moss; and the clearing of noxious weeds. Additionally benches will be installed to increase access and enjoyment to this water feature.

4) East Bay NA – Rose Street revegetation plan update

Project Ranking: 10
Neighborhood Match \$2,076
Grant Requested: \$2,000
Grant Recommended: \$1,956
Partners/Contractors: Galen Wright, certified Forester and Board Certified Arborist

This project has four components: 1) **Retain arborist:** Hire a certified arborist to update the Rose Street Re-Vegetation Plan; 2) **Refine the plan:** work with the arborist and EBNA to review and refine the plan; 3) **Neighborhood Review & Approval:** present the plan and seek EBNA approval; and, 4) **City Review & Approval:** present the proposed Re-Vegetation Plan to City officials for review and approval.

5) Ken Lake (AKA Lakemoor LLC) NA – Entrance Island Rehabilitation

Project Ranking: 3
Neighborhood Match \$5,454
Grant Requested: \$3,436
Grant Recommended: \$3,360
Partners/Contractors: Marenakos Rock Center, Black Lake Landscape Supplies; local contractors as needed

This project will address safety concerns and enhance the entrance aesthetics in an ecologically sensitive manner with the following work: 1) **Sign Clean-up:** Removal of deteriorated stone structures (sign-holder pillars); 2) **Increase line of sight:** redesign of the sign will improve safety in the intersection; 3) **Material Upgrade:** identify and utilize low-maintenance materials; 4) **Re-Purposed Materials:** reuse all materials as possible; 5) **Water-Wise Design:** reduce irrigation needs with water-wise and drought-tolerant plantings; 6) **Energy-Smart Design:** Replace existing lighting with LED lighting.

6) Marie's Vineyard NA – Tree Trimming & Entrance Sign

Project Ranking: 6
Neighborhood Match \$1,500
Grant Requested: \$1,500
Grant Recommended: \$1,467
Partners/Contractors: Neighbors and other volunteers

Attachment 2

This proposal will provide for the trimming of neighborhood trees and will improve the neighborhood entrance sign.

7) Northeast NA – Love Our Local Festival

Project Ranking: 4
Neighborhood Match \$1,100
Grant Requested: \$1,500
Grant Recommended: \$1,467
Partners/Contractors: Trillium Power Productions

As in previous years, the neighborhood will host this remarkable festival as a free, one-day event which celebrates the creativity of local artisans, artists, musicians, non-profit organizations, and the people of Olympia. Funds will specifically be utilized for construction of the stage, the shade structure and paint.

8) Northwest NA – Pathway & Open Space

Project Ranking: 1
Neighborhood Match \$27,120
Grant Requested: \$1,500
Grant Recommended: \$1,467
Partners/Contractors: Venture Crews 4114 & 48 (youth crews) and Native Plant Salvage; Michael Moore Trees Inc. (donated wood chips)

This project focuses on two key neighborhood enhancements: **1) Pocket Park:** creation of a small “pocket” park on a former abandoned lot adjacent to storm water right-of-way at Madison & Thomas St NW; and, **2) Woodard Pathway Project:** continuation of this non-motorized trail linking Rogers St. NW to West Bay Dr.

9) Northwest Olympia NA – Mural at Westside Police Station

Project Ranking: 5
Neighborhood Match \$5,665
Grant Requested: \$2,098
Grant Recommended: \$2,052
Partners/Contractors: Olympia Police Department, Garfield Grade School

Funding will support a collaborative mural project on the exterior of the Westside Olympia Police Station. Goals include: **Relationship Building:** strengthening ties between the Police station and neighbors and the school; **Facility Beautification:** improvements will enhance the aesthetics; **Neighborhood Art:** Bringing a mural project to a visible location will support neighborhood art. **Please note:** Final mural location may change.

10) South Capitol NA – Street Banner Project

Project Ranking: 9
Neighborhood Match \$10,518
Grant Requested: \$5,000
Grant Recommended: \$4,889
Partners/Contractors: City of Olympia, State of Washington; Capital Campus Gardens.

This project will continue a long time goal to use public art installed along Capital Way to address the civic and physical pressures place on the neighborhood by its proximity to the State Capitol. The specific goal is to create and install a total of six banners at the North and South entrances to the SCNA along Capital Way. These highly visible banners are intended to play a key role in neighborhood and community events.



City Council

Discussion of Administrative Costs and Issues Related to the Opportunity for Olympia Income Tax Initiative

Agenda Date: 5/17/2016
Agenda Item Number: 6.B
File Number: 16-0627

Type: discussion **Version:** 1 **Status:** Other Business

Title

Discussion of Administrative Costs and Issues Related to the Opportunity for Olympia Income Tax Initiative

Recommended Action

Committee Recommendation:

Originally referred to the May Finance Committee meeting. Due to scheduling conflicts the May Committee meeting was cancelled.

City Manager Recommendation:

Discuss and develop an understanding of the costs and administrative issues associated with the proposed City of Olympia income tax.

Report

Issue:

Whether to discuss the associated cost to the City if the potential initiative passes.

Staff Contact:

Jane Kirkemo, Administrative Services Director, 360.753.8499

Presenters:

Steve Hall, City Manager

Jane Kirkemo, Administrative Services Director

Background and Analysis:

In April, the City was notified of a potential initiative to apply a 1.5% income tax on Olympia residents with a household income exceeding \$200,000 for the purpose of assisting in the cost of community or technical college. Although not officially received by the City, staff and Council have been given a draft of the proposed City of Olympia income tax initiative.

On April 17, the Council held a study session to discuss some of the legal issues associated with the potential initiative. Tonight's meeting is to continue the discussion, this time focusing on the administrative costs and issues. (e.g. How will the City pay to have the initiative certified by the

county? How much will it cost to have the initiative placed on the November ballot?) Staff will draft a list of questions/issues to be discussed at the meeting. The purpose of tonight's meeting is for staff and the Council to develop a comprehensive list of administrative issues.

Neighborhood/Community Interests

The City's Coalition of Neighborhoods Association has proposed holding a forum on any City initiative on the November ballot.

Options:

- Discuss and add to staff's list of administrative issues.
- Discuss but do not add to staff's list of administrative issues.
- Do not discuss the administrative issues.

Financial impact:

The financial impact of the proposed initiative is undeterminable at this point.

Attachments:

Initiative.

Opportunity for Olympia Initiative Petition



This measure would establish a city fund dedicated to funding at least one year of free community or technical college for each year's City of Olympia public high school graduates and GED high school equivalency certificate recipients, or an equivalent amount of money for such public high school graduates and GED recipients who choose to attend public universities and colleges in the State of Washington. 95% of all funds raised must be spent on tuition or related educational services, not administrative costs. The measure would be funded by establishing an excise tax of 1.5% on household income exceeding \$200,000 in the City of Olympia

INITIATIVE PETITION TO THE OLYMPIA CITY COUNCIL:

We, the undersigned registered voters within the City of Olympia, hereby petition the City Council to adopt the following proposed ordinance or submit it, unaltered, to a citywide vote pursuant to state law:

This measure would establish a fund dedicated to funding one year of free community college for each year's public high school graduates and those students receiving GED high school equivalency certificates who live in the City of Olympia, or an equivalent amount of money for those public high school graduates and GED recipients who choose to attend public universities and colleges in the State of Washington. 95% of all funds raised must be spent on tuition, not administrative costs. The measure would be funded by establishing an excise tax of 1.5% on household income exceeding \$200,000.00 in the City of Olympia.

WARNING:

Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

Each signature shall be executed in ink or indelible pencil and shall be followed by the name and address of the signer and the date of signing.

SIGNATURE <i>Please sign as registered to vote</i>	PRINT NAME HERE <i>For positive identification</i>	FULL MAILING ADDRESS <i>Street, City, State and Zip</i>	Date <i>MM-DD-YY</i>
1			<input type="text"/>
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The full text of the ordinance is on the back.

Opportunity for Olympia Initiative Petition

TO THE OLYMPIA CITY COUNCIL:

We, the undersigned registered voters within the City of Olympia, hereby petition the City Council to adopt the following proposed ordinance or submit it, unaltered, to a citywide vote pursuant to state law:

This measure would establish a city fund dedicated to funding at least one year of free community or technical college for each year's City of Olympia public high school graduates and GED high school equivalency certificate recipients, or an equivalent amount of money for such public high school graduates and GED recipients who choose to attend public universities and colleges in the State of Washington. 95% of all funds raised must be spent on tuition or related educational services, not administrative costs. The measure would be funded by establishing an excise tax of 1.5% on household income exceeding \$200,000 in the City of Olympia.

AN ORDINANCE of the City of Olympia, Washington, imposing an excise tax on household income above \$200,000 per year derived from financial transactions, personal activities, business, commerce, occupations, trades, professions and other lawful activities, the revenues therefrom to be dedicated to funding at least one year of free community or technical college for each year's City of Olympia public high school graduates and General Education Development Certificate ("GED") recipients, or an equivalent amount of money for such public high school graduates and GED recipients who choose to attend public universities and colleges in the State of Washington.

WHEREAS the accelerating costs of higher education over the past decade have created significant obstacles for college participation and completion for public high school graduates and GED recipients living in the City of Olympia.

WHEREAS making higher education more affordable and accessible for public high school graduates and GED recipients will lead to opportunities for further education and jobs and to a higher quality of life for all citizens.

WHEREAS free first-year and second-year tuition will allow students to enroll in college, obtain degrees and certificates much sooner and start their professional lives with little or no student debt.

WHEREAS one year of community college tuition costs approximately \$3,846, which is more than 10% of household income for two out of five households in the City of Olympia.

WHEREAS the City of Olympia has a significant interest in making higher education more affordable and accessible for its public high school graduates and GED recipients.

WHEREAS the Legislature authorizes the City of Olympia to assess excises for revenue in regard to all places and kinds of activities, including personal activities, business, production, commerce, entertainment and exhibition, and upon all occupations, trades and professions and any other lawful activity, as those activities take advantage of and use current and future city services.

WHEREAS the City of Olympia has authority to assess excises on personal activities that correlate to greater or more intense utilization of city services.

WHEREAS wealthy residents take advantage of and use a greater proportion of certain city services than do less wealthy residents. These services include without limitation police protection from theft, city utilities, educational programs, neighborhood improvement projects, property protection and other municipal services.

WHEREAS local income taxes are levied by both counties and cities, in 4,983 jurisdictions across the United States.

WHEREAS the average cost of living within the City of Olympia for a married couple with two children is approximately \$60,000, according to the Workforce Development Council of Washington State.

WHEREAS less than 3% of households in the City of Olympia benefit from annual incomes in excess of \$200,000.

WHEREAS residents in Washington with incomes below \$21,000 pay 16.8% of their income in state and local taxes, and residents with income between \$40,000 and \$65,000 pay 10.1% of their income in state and local taxes, while residents with income between \$200,000 and \$500,000 pay only 4.6% of their income in state and local taxes, and residents with income in excess of \$500,000 pay only 2.4% of their income in state and local taxes.

WHEREAS the People in their legislative capacity find that in raising revenue it is appropriate to assess taxes on the disproportionate use by wealthy residents of certain municipal services by imposing a 1.5% tax on household income in excess of \$200,000 a year, and to dedicate those funds to make higher education affordable and accessible for Olympia public high school graduates and GED recipients.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF OLYMPIA as follows:

Section 1. Legislative Findings and Intent. The People of the City of Olympia adopt and confirm the above recitals. In exercising their direct legislative authority, the People intend to fund at least one year of free community or technical college in the State of Washington for each year's City of Olympia public high school graduates and GED recipients, or an equivalent amount of money for such graduates and GED recipients who choose to attend public universities or public colleges in the State of Washington. The People intend to raise such funds through the exercise of the City of Olympia's power under RCW 35A.82.020 by imposing a 1.5% tax on household income in excess of \$200,000 a year. 95% of all funds raised must be spent on grants and related educational services, not administrative costs.

Section 2. Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) The terms "community college" and "technical college" mean the public community colleges and public technical colleges in the State of Washington governed under chapter 28B.50 RCW.

(2) The terms "university" and "college" mean the public universities and public colleges in the State of Washington governed under chapter 28B.10 RCW.

(3) "Committee" means the Opportunity for Olympia Committee, which shall be comprised of the Mayor Pro Tem and four additional members appointed by the Mayor for three year terms. Members may serve successive terms.

(4) "Department" means the department or departments that the city manager directs to implement the provisions of this chapter.

(5) "Fund" means the Opportunity for Olympia Fund defined in this chapter.

(6) "Gift aid" means financial aid received from federal and state grant and scholarship programs that provide funds for educational purposes with no obligation of repayment. Student loans and work study programs are not included.

(7) "Income" means adjusted gross income as determined under the federal internal revenue code. A federal individual income tax return filed with the United States Internal Revenue Service ("IRS") creates a presumption of a taxpayer's income for purposes of this chapter.

(8) "Internal revenue code" means the United States internal revenue code of 1986, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, as the same may be or become effective at any time, or from time to time, for the taxable year.

(9) "Qualified student" means an individual who:

(a) earned either a high school diploma from a public high school in the State of Washington or a GED as provided under RCW 28A.305.190; and

(b)(i) resided or was domiciled in the City of Olympia at least 50% of the year preceding the date on which he or she received a high school diploma or GED; or

(ii) had no regular, fixed residence but lived in the City of Olympia in a temporary shelter, institution or place not ordinarily used as a residence at least 50% of the year preceding the date on which he or she received a high school diploma or GED; and

(c) enrolled in a community college, technical college, university or college within two years of earning a high school diploma or GED.

(10) "Resident taxpayer" means an individual who:

(a) has resided in the City of Olympia for the entire tax year; or

(b) is domiciled in the City of Olympia unless the individual:

(i) maintains no permanent place of abode in the City of Olympia; and

(ii) maintains a permanent place of abode elsewhere; and

(iii) spends in the aggregate not more than one-hundred and twenty days in the tax year in the City of Olympia; or

(c) is not domiciled in the City of Olympia, but maintains a permanent place of abode in the City of Olympia and spends in the aggregate more than one hundred eighty-three days of the tax year in the City of Olympia unless the individual establishes to the satisfaction of the department that the individual is in the City of Olympia only for temporary or transitory purposes; or

(d) claims the City of Olympia as the tax home for federal income tax purposes.

(11) "Tax" means the excise tax established by this chapter, unless the context requires a different meaning.

(12) "Taxpayer" means (i) an individual who is not married, who is a surviving spouse or who does not make a single return jointly with his or her spouse; or

(ii) a married couple filing jointly for federal income tax purposes.

Section 3. Assessment of Excise Tax.

(1) This act applies to income received on and after January 1, 2017.

(2) For each resident taxpayer, an annual levy is assessed on income exceeding \$200,000 per tax year at the rate of 1.5%.

(3) Each resident taxpayer who is subject to the tax assessed under this chapter shall make and file a return, and pay any tax owed, on or before April 15th of the year following the taxable year. The department may extend this deadline upon the request of the taxpayer for a period not to exceed one year.

(4) Within three months from the final determination of any federal tax liability affecting a taxpayer's liability for the tax assessed under this chapter, such taxpayer shall make and file an amended return based on such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

(5) All taxes assessed under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of 1% per month or fraction thereof. At the department's discretion, the department may abate the interest owed, in whole or in part, upon showing of good cause

Section 4. Establishment of the Opportunity for Olympia Fund.

(1) A new City of Olympia fund called the "Opportunity for Olympia Fund" is hereby created to support grants for higher education to qualified students.

(2) All revenues from the excise tax assessed under this chapter must be deposited in the fund and used exclusively for the purposes set forth in this chapter.

(3) The City of Olympia and the committee may solicit and receive gifts, grants and bequests from other public and private entities, including commercial enterprises, to be deposited in the fund and used exclusively for the purposes set forth in this chapter.

(4) At least 95% of the total revenue received by the fund must be devoted to grants or other related educational services under section 5 of this chapter, not to administrative costs.

Section 5. Opportunity for Olympia Grant Program.

(1) A qualified student shall be eligible for a grant under this section each term that such student is enrolled in one or more courses that are either:

(a) offered at a community college or technical college for one or more credits that can be applied to (i) a one-year or two-year curriculum for students who plan to transfer to another post-secondary institution of education; (ii) an associate's degree; (iii) a program in career and technical education; (iv) Basic Education for Adults; (v) Integrated Basic Education Skills Training I-Best; (vi) the first two years of study for an Upper Division/ Applied Bachelor's Degree provided through a community college; or (vii) such other programs as the department determines are appropriate; or

(b) offered for credit at a college or university.

(2) Except as provided in paragraphs (3) and (4) of this section, the amount of a grant shall be the actual cost of tuition and fees for courses satisfying the criteria in paragraph (1) of this section, including tuition and fees as defined in RCW 28B.15.020 and services and activities fees as defined in RCW 28B.15.041, less other gift aid received by the student that is and must be dedicated solely to such tuition and fees. The department, in administering this program, shall take all reasonable steps to minimize the impact of grants awarded under this subsection (2) on other gift aid.

(3) Except as provided in paragraph (4) of this section, the total amount of dollars in grants awarded to a particular student under this chapter shall not exceed the average cost of tuition and fees for one year at a community college, as determined by the department in consultation with the committee.

(4) The total amount of dollars in grants awarded in a tax year under this chapter shall not exceed the amount of dollars deposited in the fund the prior tax year. If funds are insufficient, the department, in consultation with the committee, may determine the priority by which grants are awarded. At the end of a tax year in which more than 10% of the revenues deposited in the fund during the prior tax year are not disbursed, the department, in consultation with the committee, may (i) dedicate the surplus, or any portion thereof, to fund grants for the average cost of up to two years of community college; and/or

(ii) implement or support programs or policies that improve the academic success or completion rates for students who receive or will be eligible for a grant under this chapter.

Section 6. Implementation and Accountability.

(1) The department shall have authority to adopt any rules, procedures, forms and policies, to execute contracts and agreements, to delegate its authority to the committee as the department deems appropriate and to coordinate with any other public entity, including but not limited to the Olympia School District, the Washington Student Achievement Council, the Washington State Department of Revenue, and the IRS, to implement the provisions of this chapter.

(2) The city manager, or his or her designee, shall prepare an annual audit of the moneys deposited in the fund, reporting on how the moneys have been spent and estimating the number of residents benefited. Annual disclosure of tax collection and spending under this chapter must be posted on a web site maintained by the City of Olympia and such disclosure must, at a minimum, include the information set forth in RCW 43.08.150, localized for the City of Olympia.

Section 7. Miscellaneous.

(1) The provisions of this chapter shall be interpreted and implemented in a manner consistent with the United States Constitution, the Washington Constitution and federal and state laws and regulations.

(2) If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

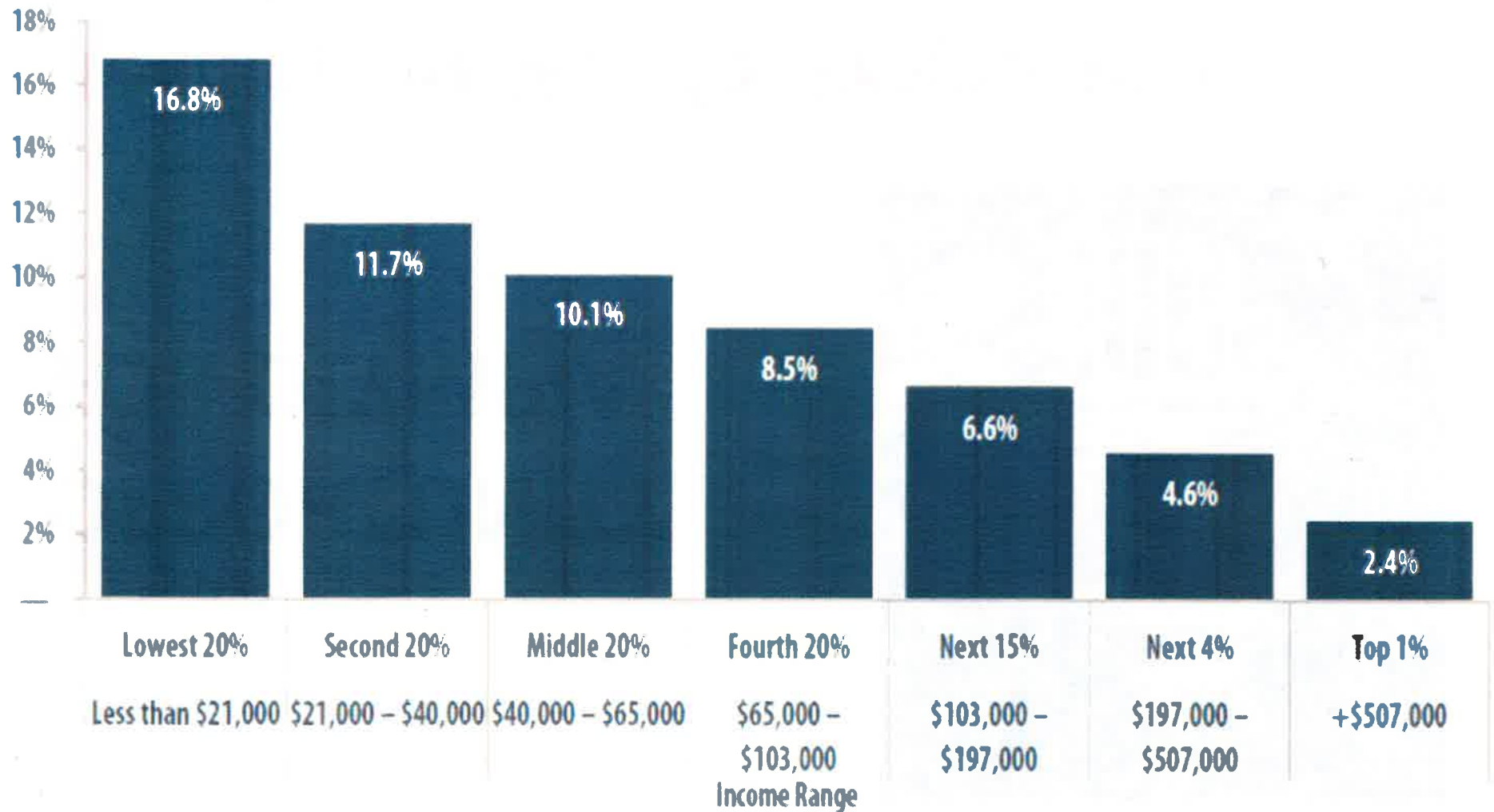
OPPORTUNITY FOR OLYMPIA



**Leading the Way for Progressive
Taxation in Washington State**

% OF INCOME PAID IN STATE AND LOCAL TAXES WASHINGTON STATE

Shares of family income for non-elderly taxpayers



Polling Results

- Fund free community college tuition for all public high school graduates or an equivalent amount of money for those attending public four year universities and colleges.
- Establishing a tax on households with income in excess of \$200 thousand dollars in the City of Olympia.
- YES: 70% NO: 22%
- YES: 71% NO: 24%

Opportunity for Olympia Leading the way for progressive taxation

- **Olympia 2016**
- **Seattle 2017**
- **Bellingham, Shoreline 2018**
- **Statewide 2020**

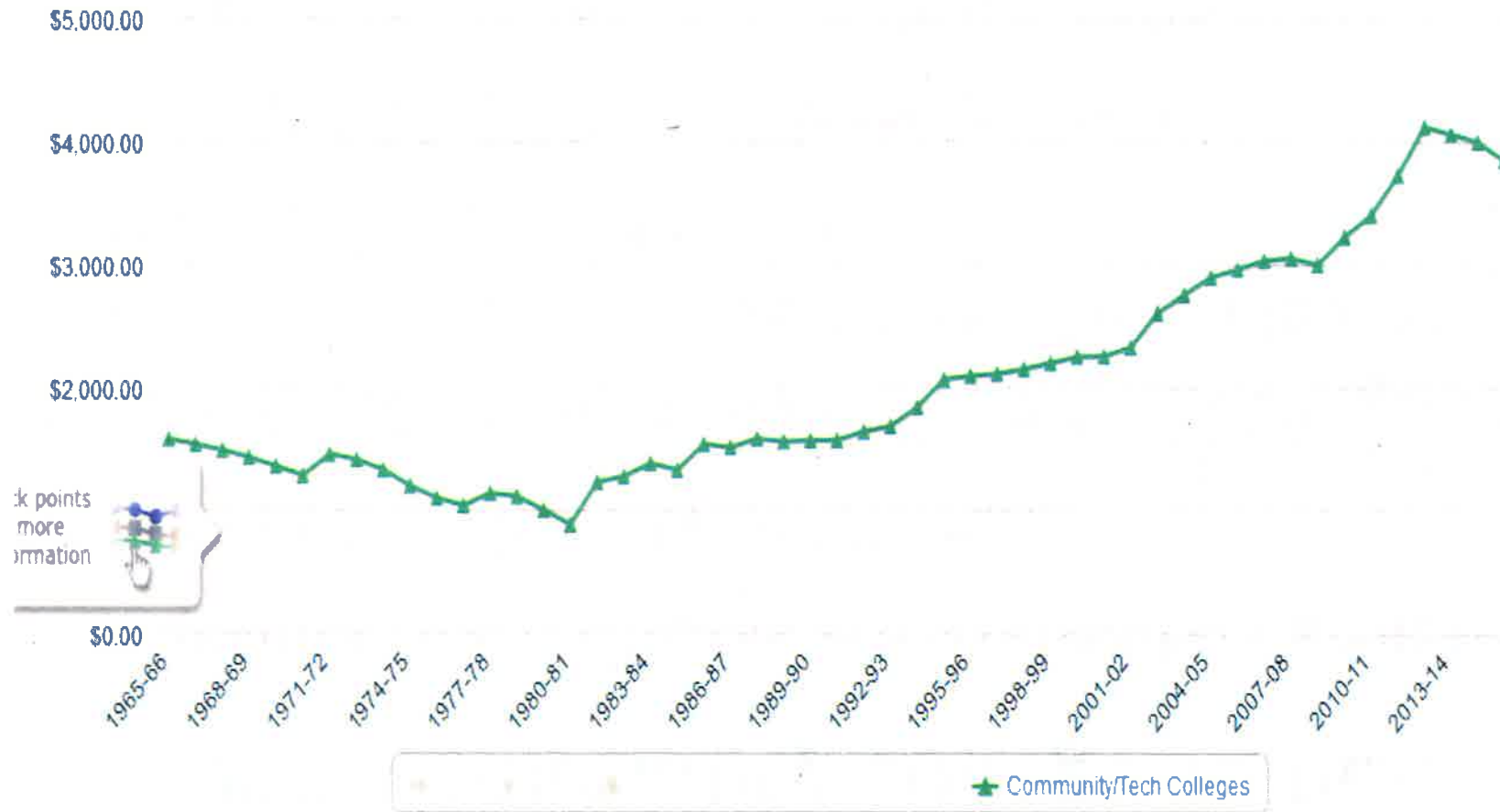
Forward!



Olympia Public High School Graduates and Community College Tuition

- Olympia High Schools graduated 647 students
- 70% live in the City of Olympia
- 25% go to community college and 26% go to public four-year universities. That's fewer than 250 students in all.
- Add in 100 GED certificate gainers.
- Total students for free tuition: 350
- Annual cost: \$1.4 million

Community College Tuition



EQI calculations based on WA LEAP, WA Student Achievement Council, and WA Office of Financial Management data. In constant 2014 dollars.

Olympia Details

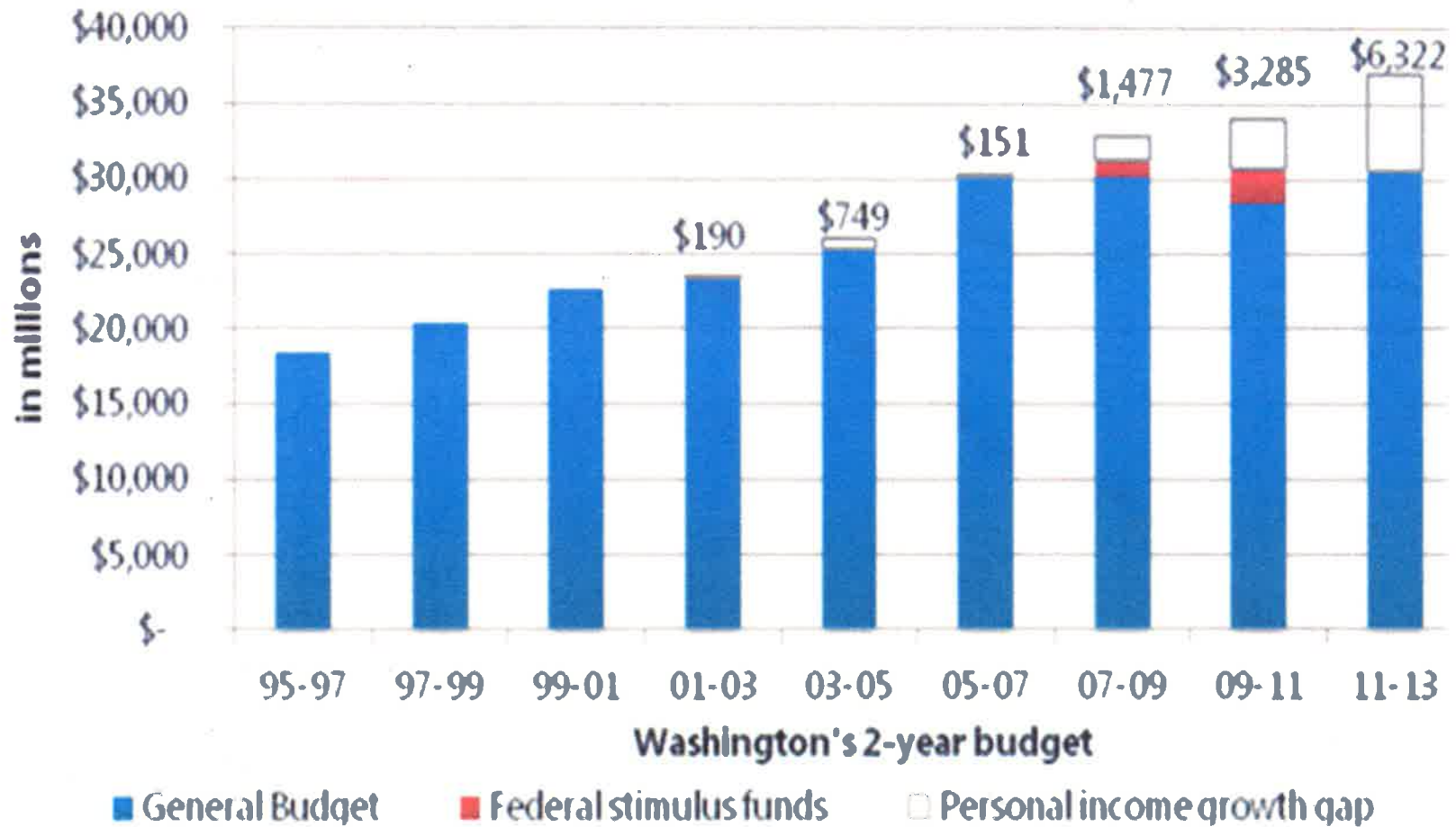
- **Signatures Needed: 4,702**
- **Authority to Tax: Privilege Tax**
- **Suggested Tax: 1.5% tax on income in excess of \$200,000**
- **Revenue \$2.5 million**
- **711 taxpayers**

- **Percentage of households: \$200,000 = 3%**
- **Percentage of households: < \$50,000 = 56%**
- **Percentage of households: 50K – 200K = 41%**

Olympia can lead the way to a state income tax

- **I-1098 vote: 56% Yes**
- **I-1351 vote: 57% Yes**
- **I-1366 vote (Eyman initiative): 70% No**
- **Olympia School District Levy: 78% Yes**
- **Olympia School District \$160 million Bond: 74% Yes**

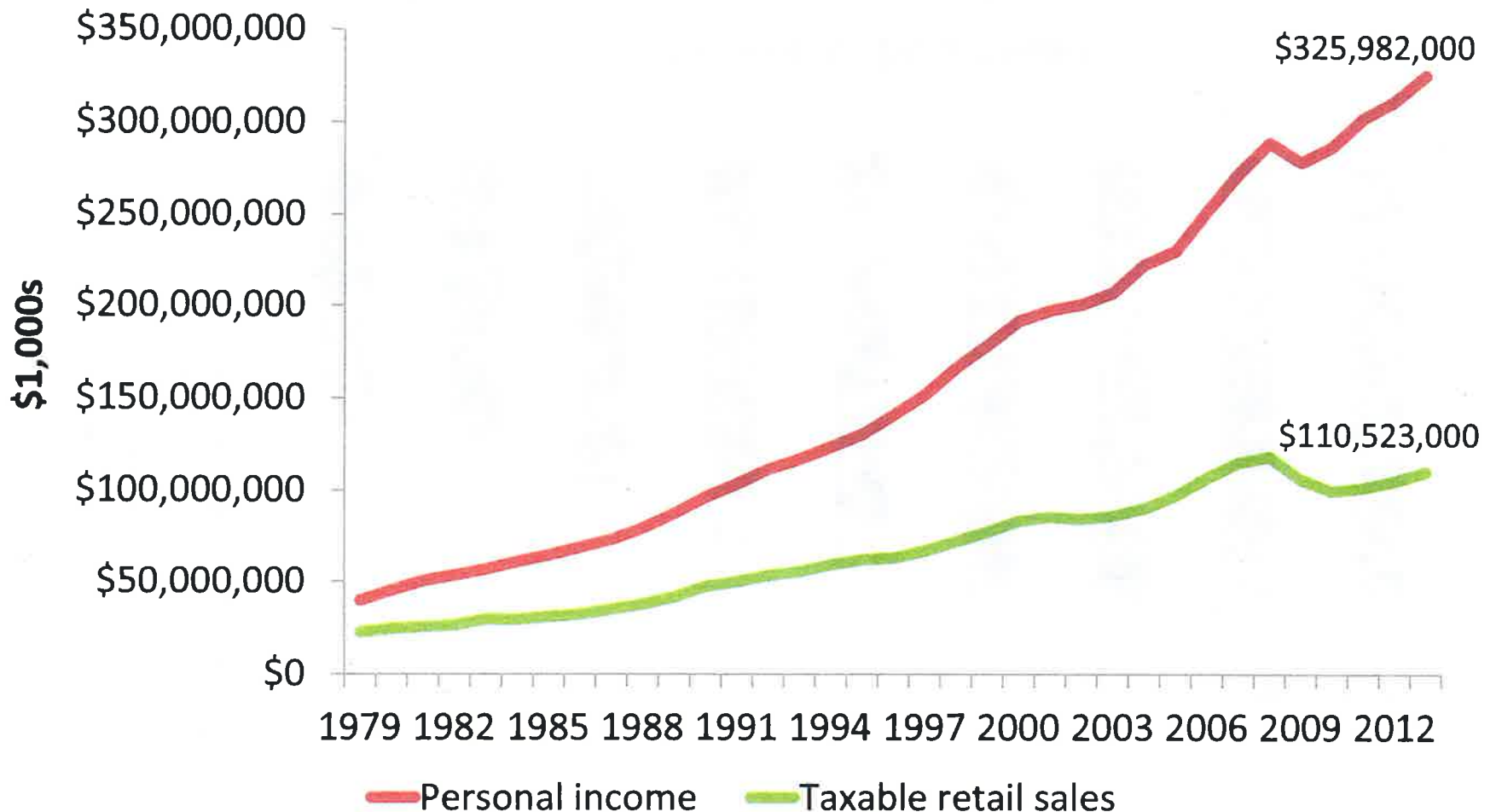
If revenue just kept up personal income....



For academic year ending in given year. Source: fiscal.wa.gov
www.eoionline.org

We are leaving a lot of money on the table!

Personal income is growing much faster than sales tax base in WA



Sources: U.S. Bureau of Economic Analysis, Washington Economic and Revenue Forecast Council

www.econline.org



TO: Interested Parties

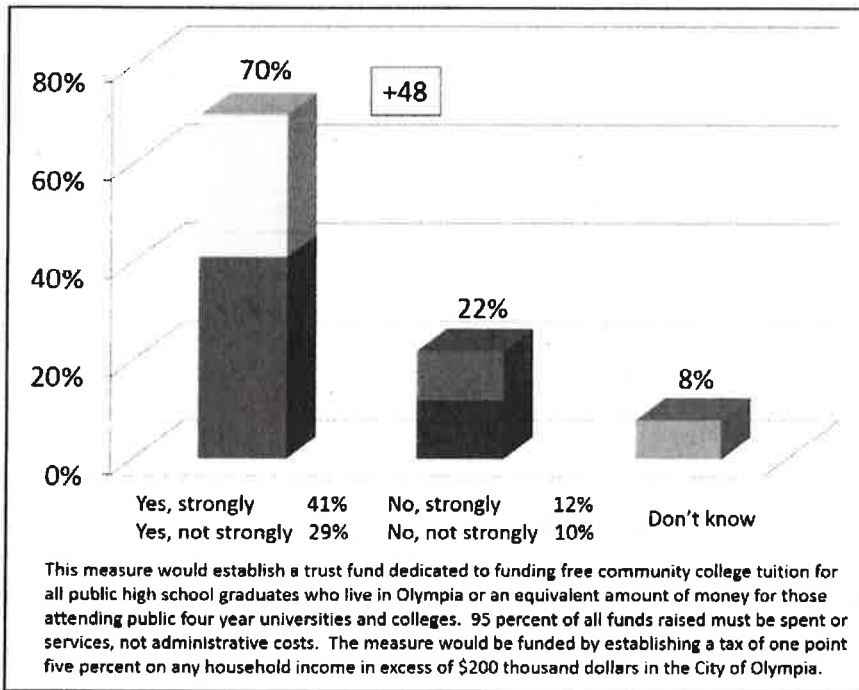
FROM: Patinkin Research Strategies, LLC
Ben Patinkin

RE: Olympia voters support a wealth tax paying for free community college for local high school graduates

Date: February 19, 2016

This analysis is based a telephone poll of n=300 registered, likely November, 2016 voters in Olympia, WA. Interviews were conducted February 16-18, 2016 and the margin of error is +/- 5.7 percentage points at the 95% level of confidence. The margin of error for subgroups varies and is higher.

Broad support for a wealth tax funding free community college for Olympia high school graduates



Likely November voters in Olympia are strongly supportive of a proposed wealth tax funding free community college for local high school graduates. Seven in 10 (70%) say they would vote "yes" on the proposed initiative, while over four in 10 (41%) are "strongly" supportive.

On the other hand, opposition to the proposal is extremely weak. Only slightly more than one in five (22%) say they'll vote "no" while only one in 10 (12%) are "strongly" opposed.

In fact, the initiative receives support from every partisan subgroup. Democrats (88%), independents (68%) and Republicans (47%) all express a willingness to vote "yes" on the proposed wealth tax. Put simply, this measure is both viable and extremely popular.



**PATINKIN
RESEARCH
STRATEGIES**

City of Olympia

Feb 18, 2016

Gender

male	47 %
female	53 %

q1. Before we begin, I need to know whether I have reached you on a cell phone, and if so, are you in a safe place where we can continue this conversation?

No, not on a cell phone	68 %
Yes, on a cell phone, but in safe place	32 %

q2. Thinking ahead, on November 8th, 2016, there will be a vote-by-mail General Election for President, Governor, US Senate and other state and local offices and ballot measures. How likely would you say you are to vote in this General Election—are you almost certain to vote, will you probably vote, would you say the chances are 50-50 that you will vote, are you probably not going to vote or will you definitely not vote in the November 8th, 2016 General Election?

Almost certain to vote	74 %
Probably will vote	26 %

q3. Thinking about all the telephone calls that you receive, do you get: [READ; DO NOT ROTATE]

All of your calls on a cell phone	30 %
Almost all of your calls on a cell phone;	6 %
About half on a cell phone and half on a regular home phone;	29 %
Almost all of your calls on a regular home phone; or	19 %
All of your calls on a regular home phone?	16 %
DK/NA [DO NOT READ]	0 %

q4. I am going to describe to you a potential initiative that may appear on the November 2016 ballot in the City of Olympia.

This measure would establish a trust fund dedicated to funding free community college tuition for all public high school graduates who live in Olympia or an equivalent amount of money for those attending public four year universities and colleges. 95 percent of all funds raised must be spent on services, not administrative costs. The measure would be funded by establishing a tax of one point five percent on any household income in excess of \$200 thousand dollars in the City of Olympia.

Having heard this, if the election were held today would you vote "yes" or "no" or are you undecided? [IF YES/NO, ASK:] Do you feel that way strongly or not so strongly?

Yes, strongly	41 %
Yes, not strongly	29 %
No, not strongly	10 %
No, strongly	12 %
DK/NA	8 %
NET YES	70 %
NET NO	22 %

I'm going to read you a number of aspects of this potential initiative establishing a tax of one point five percent on any household income in excess of \$200 thousand dollars in the City of Olympia. If you aren't sure, you can tell me that, too and we will move on. [IF FAVOR/OPPOSE, ASK:] Do you feel that way strongly or not so strongly? [READ; ROTATE]

	Favor, strongly	Favor, not strongly	Oppose, not strongly	Oppose, strongly	DK/NA
q5. Offer one year of free community college tuition for all Olympia public high school graduates and adults receiving continuing education who live in Olympia or an equivalent amount of money for those attending public four year universities and colleges	45%	31%	12%	7%	5%
q6. Build a city-wide free Wi-Fi network for use by businesses, individuals, and visitors	42%	32%	12%	5%	8%
q7. Create urban rest stops with free 24-hour access to clean and safe restrooms as well as showers and laundry facilities where people who need to shower and wash clothes can get a fresh start	27%	42%	14%	8%	9%
q8. Expand the Food for Kids Program to address childhood hunger - which currently affects one-in-five children - in our community	52%	31%	7%	3%	6%
q9. Require that 95 percent of all funds raised must be spent on services, not administrative costs	55%	27%	7%	5%	6%
q10. Establish a tax of one point five percent on any household income in excess of \$200 thousand dollars in the City of Olympia	45%	27%	9%	9%	10%

[ROTATE SECTIONS I AND II]

___ I. I'm going to read you some statements people have made as a reason to consider opposing the potential initiative establishing a tax of one point five percent on any household income in excess of \$200 thousand dollars in the City of Olympia. After each, please tell me whether you find that statement a very convincing reason to oppose this initiative, somewhat convincing, not too convincing or not convincing at all. If you aren't sure, you can tell me that, too, and we will move on. **[READ; ROTATE]**

	Very convincing	Somewhat convincing	Not too convincing	Not at all convincing	DK
q11. [COMPLICATED] This tax is far too complicated. To make it work, the City will have to use hundreds of thousands of taxpayer dollars just to set up a whole new bureaucracy to oversee it-creating more rules and more regulation	20%	25%	32%	17%	6%
q12. [JOBS] In order to keep our economy moving and create more good-paying jobs, we need to attract wealthy investors and their businesses to Olympia. But a tax like this will push more wealthy individuals and families out of Olympia, hurting our local economy	17%	28%	25%	24%	6%
q13. [ANOTHER WAY] While all of the services funded by this tax are good ones, we need to find another way to do it. Instead of putting all the burden on residents of Olympia, the burden should be shared across the state because this issue impacts all of Washington, not just our City	17%	29%	21%	23%	9%
q14. [CONSTITUTION] This tax is a hidden income tax—which means it's unconstitutional. If it passes, it will be subject to expensive court fights that cost Olympia taxpayers millions of dollars that would be better spent on priorities like improving education, addressing homelessness, and improving our local infrastructure	24%	28%	23%	19%	5%
q15. [INCOME TAX] Supporters of this initiative are using it as a backdoor route to create an income tax on every city resident. After numerous tries, it should be clear that the residents and families of Washington do not want an income tax	22%	27%	23%	23%	4%

__II. I'm going to read you some statements people have made as a reason to consider supporting the potential initiative establishing a tax of one point five percent on any household income in excess of \$200 thousand dollars in the City of Olympia. After each, please tell me whether you find that statement a very convincing reason to support this initiative, somewhat convincing, not too convincing or not convincing at all. If you aren't sure, you can tell me that, too, and we will move on. [READ; ROTATE]

	Very convincing	Somewhat convincing	Not too convincing	Not at all convincing	DK
q16. This tax only applies to the wealthiest three percent of households in Olympia—but would raise millions of dollars that will enable high school graduates to attend community college for free. With a better educated work force, we'll be able to attract more businesses, create more good paying jobs and ensure a legacy of opportunity in Olympia.	44%	30%	16%	8%	2%
q17. Right now, the bottom 20 percent of families in Washington pay nearly 15 percent of their income for state and local taxes. Middle income families pay 10 percent, while those in the top one percent pay only two point four percent. The wealthiest families shouldn't expect to get something for nothing – if we want Olympia to thrive, we have to be willing to raise the revenue necessary to invest in our community's success.	36%	40%	12%	8%	5%
q18. America now has more wealth and income inequality than any major developed country on earth, and the gap between the very rich and everyone else is wider than at any time since the 1920s. This proposal is one step on the road towards fixing this problem	33%	39%	13%	10%	4%
q19. Our quality of life in Olympia is outstanding – but that quality of life depends on local revenue – and we've left money on the table. We have chosen not to collect revenue from those who could actually afford it the most. This sensible tax reform allows us to have more revenue for things that make our city prosper, like free community college education for high school graduates	34%	35%	13%	11%	7%

q20. Let me ask you one more time:

I am going to describe to you a potential initiative that may appear on the November 2016 ballot in the City of Olympia.

This measure would establish a trust fund dedicated to funding free community college tuition for all public high school graduates who live in Olympia or an equivalent amount of money for those attending public four year universities and colleges. 95 percent of all funds raised must be spent on services, not administrative costs. The measure would be funded by establishing tax of one point five percent on any household income in excess of \$200 thousand dollars in the City of Olympia.

Having heard this, if the election were held today would you vote "yes" or "no" or are you undecided?
[IF YES/NO, ASK:] Do you feel that way strongly or not so strongly?

Yes, strongly	45 %
Yes, not strongly	26 %
No, not strongly	8 %
No, strongly	16 %
DK/NA	5 %
NET YES	71 %
NET NO	24 %

q21. Generally speaking, do you think of yourself as a Republican, a Democrat, an Independent, or something else? **[IF REPUBLICAN/DEMOCRAT, ASK:]** Do you consider yourself a strong ____ **[REPUBLICAN/DEMOCRAT]** or a not so strong ____ **[REPUBLICAN/DEMOCRAT]**? **[IF INDEPENDENT, ASK:]** Would you say that you lean more towards the Republican or more towards the Democratic Party?

Republican, strongly	16 %
Republican, not so strongly	10 %
Independent, leans Republican	6 %
Independent	21 %
Independent, leans Democrat	9 %
Democrat, not so strongly	16 %
Democrat, strongly	21 %
DK/NA/OTHER	2 %
NET REPUBLICAN	32 %
NET DEMOCRAT	46 %

q22. What was the last level of education that you completed?

High school graduate or less	11 %
Some college education	25 %
College graduate	51 %
Postgraduate	13 %
DK/NA	0 %



City Hall
601 4th Avenue E.
Olympia, WA 98501
360-753-8244

City Council

Executive Session Pursuant to RCW 42.30.110 (1)(b) and RCW 42.30.110 (1)(c) - Real Estate Matter

Agenda Date: 5/17/2016
Agenda Item Number: 9.A
File Number: 16-0628

Type: executive session **Version:** 1 **Status:** Executive Session

Title

Executive Session Pursuant to RCW 42.30.110(1)(b) and RCW 42.30.110 (1)(c) - Real Estate Matter