

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, DIRECTING AND AUTHORIZING THE CITY CLERK TO UPDATE REFERENCES TO CERTAIN TERMS, FUNDS, AND POSITION TITLES THROUGHOUT THE OLYMPIA MUNICIPAL CODE; AMENDING VARIOUS SECTIONS OF THE OLYMPIA MUNICIPAL CODE TO CORRECT SCRIVENER/CLERICAL ERRORS AND CROSS-REFERENCES TO OBSOLETE OR OUTDATED CODE SECTIONS; AND REPEALING CHAPTER 12.04, MONUMENTS AND GRADES, OF THE OLYMPIA MUNICIPAL CODE.

WHEREAS, pursuant to the provisions of RCW 35.21.500 through 35.21.570 and by virtue of Ordinance No. 4345, the Olympia Municipal Code (the OMC) was adopted on February 23, 1982; and

WHEREAS, hundreds of amendments have been made to the OMC since its adoption, some of which contained scrivener/clerical errors; and

WHEREAS, the OMC also contains cross-references to obsolete or outdated code sections, as well as outdated references to certain terms, funds, and position titles; and

WHEREAS, some provisions of the OMC have been superseded by later-enacted ordinances; and

WHEREAS, it is in the best interest of the City to direct and authorize the City Clerk to update certain references throughout the OMC; and

WHEREAS, it is in the best interest of the City to amend the OMC to correct scrivener/clerical errors and cross-references to obsolete or outdated code sections; and

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

WHEREAS, this Ordinance is supported by the staff report, attachments, documents on file with the City, and the professional judgment of staff;

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

Section 1. Amendment of Olympia Municipal Code. The City Clerk and codifiers of this Ordinance are hereby directed and authorized to change the term "City Commission" to "City Council" wherever referenced in the Olympia Municipal Code.

Section 2. Amendment of Olympia Municipal Code. The City Clerk and codifiers of this Ordinance are hereby directed and authorized to change the term "City Supervisor" to "City Manager" wherever referenced in the Olympia Municipal Code.

Section 3. Amendment of Olympia Municipal Code. The City Clerk and codifiers of this Ordinance are hereby directed and authorized to change the term "Streets Commissioner" to "Public Works Director" wherever referenced in the Olympia Municipal Code.

Section 4. Amendment of OMC 2.06.070. Olympia Municipal Code Section 2.06.070 is hereby amended to read as follows:

2.06.070 Terms –Vacancy filling

The terms shall be for two-year periods, commencing on January 1st, of each even-numbered year. The terms for members of the Committee of the Chairs shall be co-extensive with the terms for members of the committees set forth in OMC Section 2.06.010~~±A—E~~. Vacancies occurring prior to the expiration of these terms shall be filled in the same manner as set forth in this chapter for regular appointments.

Section 5. Amendment of OMC 2.32.030. Olympia Municipal Code Section 2.32.030 is hereby amended to read as follows:

2.32.030 Service outside of city limits –Permitted

Whenever a fireman engages in any duty outside the limits of the city pursuant to an agreement provided for in Section ~~3.06.010~~ 2.32.010, such duties shall be considered as part of his duty as fireman for the city, and he shall be entitled to the same benefits that he or his family would be entitled to receive had he been engaged in any duty within the city.

Section 6. Amendment of OMC 2.32.040. Olympia Municipal Code Section 2.32.040 is hereby amended to read as follows:

2.32.040 Service outside of city limits –Conditions

The fire department shall not respond to any call for aid or service from outside the city limits to any person or persons or community with which the city has not entered into an agreement as provided for in Section ~~3.06.010~~ 2.32.010 unless approved by the chief of the fire department.

Section 7. Amendment of OMC 2.32.050. Olympia Municipal Code Section 2.32.050 is hereby amended to read as follows:

2.32.050 Disposition of revenue from contracts or agreements

All revenue collected by the city pursuant to contracts or agreements described in Section ~~3.06.010~~ 2.32.010 shall be credited to the general fund of the city.

Section 8. Amendment of OMC 2.100.030. Olympia Municipal Code Section 2.100.030 is hereby amended to read as follows:

2.100.030 List - Citizen –Member Committees Appointed by the Olympia City Council

The committees appointed by the City Council are:

- A. Arts Commission (See OMC 2.100.100 - 2.100.240)
- B. Bicycle and Pedestrian Advisory Committee (See OMC 2.100.250 - 2.100.270)

C. Design Review Board (See OMC 18.76)

D. Heritage Commission (See OMC ~~18.84~~18.12)

E. Lodging Tax Advisory Committee (See OMC 2.100.280 - 2.100.310)

F. Parks and Recreation Advisory Committee (See OMC 2.100.320 - 2.100.340)

G. Planning Commission (See OMC 2.100.350 - 2.100.410)

H. Utility Advisory Committee (See OMC 2.100.420 - 2.100.440)

Section 9. Amendment of OMC 3.04.020. Olympia Municipal Code Section 3.04.020 is hereby amended to read as follows:

3.04.020 Claims fund –Established

There is created a fund to be known as the ~~claims-risk management trust~~ fund, into which may be paid moneys, from time to time, as directed by the City ~~commission~~Council from any funds which are available and upon which warrants may be issued and paid in payment of claims against the City for any purpose. ~~The accounts of the City shall be so kept that they shall show the department or departments and the respective amounts for which the warrant is issued and paid.~~

Section 10. Amendment of OMC 3.04.030. Olympia Municipal Code Section 3.04.030 is hereby amended to read as follows:

3.04.030 Claims fund –Transfers

Transfers from an insolvent fund to the ~~claims-risk management trust~~ fund shall be by warrant.

Section 11. Amendment of OMC 3.04.620. Olympia Municipal Code Section 3.04.620 is hereby amended to read as follows:

3.04.620 Self-insurance trust fund –Expenditures

The City Manager is directed and authorized to expend moneys from the fund for the following purposes:

A. To make payments to the ~~Puget Sound Insurance Authority~~ which are billed to the City and for the purchase of premium payments for insurance related to the risk management plan of the City;

B. To pay claims against the City for which the City must pay a “deductible” or is self-insured or which the City Manager, in his or her discretion, elects to pay without reference to an insurance carrier; provided that, in the latter case, the City Manager shall get authority from the ~~council~~City Council before paying a claim in excess of five thousand dollars;

C. To pay for repairs or replacement to City property which is damaged or destroyed and not covered by insurance; provided, however, the City Manager shall attempt to obtain reimbursement for such expenditures, where appropriate, from responsible parties through the legal process:

D. To pay for corrections, repairs or replacement of City property when the City Manager, in his or her discretion, determines that immediate action is necessary to prevent injury to persons or property, and moneys are not available for such purpose from other budget sources;

E. To pay for studies of other areas of self-insurance.

Section 12. Amendment of OMC 3.12.010. Olympia Municipal Code Section 3.12.010 is hereby amended to read as follows:

3.12.010 Claims procedure –Contents of claims

A. All claims for damages against the city must be presented to and filed with the city ~~clerk-treasurer~~ claims manager. The ~~city-clerk-treasurer-claims manager~~ shall refer any such claim to the city's appropriate ~~insurance-carrier-risk pool~~, and no payments or appropriations shall be made regarding the claim before it is referred to the ~~insurance-carrier-risk pool~~. The city ~~clerk-treasurer-risk manager~~ shall, upon receipt, give notice and a description of all claims exceeding five thousand dollars in alleged damages to the city ~~commission council~~. In addition, the ~~city-clerk-treasurer-claims manager~~ shall quarterly give the city ~~commission council~~ summaries of all outstanding claims against the city of Olympia and give an indication of the potential liability posed by such claims.

B. All such claims for damages must accurately locate and describe the defect that caused the injury, accurately describe the injury and state the time when same occurred and shall contain items of damages claimed and be sworn to by the claimant.

C. No action shall be maintained against the city for any claim for damages until the same has been presented to the ~~city-clerk-treasurer-claims manager~~ as outlined above.

Section 13. Amendment of OMC 12.00.000. Olympia Municipal Code Section 12.00.000 is hereby amended to read as follows:

12.00.000 Title Contents

Title 12 STREETS, SIDEWALKS AND PUBLIC PLACES

Chapters:

12.02 Olympia Development Standards

12.03 Engineering Inspection Fees

~~12.04 Monuments and Grades~~

- 12.08 Public Works Standard Specifications
- 12.10 Olympia Commute Trip Reduction Plan
- 12.12 Comprehensive Street Improvement Plan
- 12.14 Transportation Benefit District
- 12.16 Street Vacations
- 12.20 Street Excavations
- 12.24 Obstructions
- 12.28 Moving Buildings
- 12.36 Sidewalk Maintenance
- 12.44 Street Trees
- 12.48 Street Names and House Numbers
- 12.52 Private Oiling or Paving of Streets
- 12.56 Boulevard Lighting System
- 12.60 Park Regulations
- 12.62 Naming City-Owned Public Buildings, Properties, Parks and Park Facilities
- 12.64 Harbor Regulations
- 12.68 Percival Landing Moorage Facility
- 12.72 Festival Events
- 12.74 City Property and City Parklets

Section 14. Repeal of OMC 12.04. Chapter 12.04 of the Olympia Municipal Code is obsolete and is hereby repealed.

Chapter 12.04 ***MONUMENTS AND GRADES***

~~12.04.000 Chapter Contents~~

Sections:

- ~~12.04.010 Established base.~~
- ~~12.04.020 Elevations and grades of streets.~~
- ~~12.04.030 Grading of streets and gutters.~~
- ~~12.04.040 Grading of sidewalks.~~
- ~~12.04.050 Bench mark monument—Record.~~
- ~~12.04.060 Monument or post—Interference with prohibited without prior permission.~~
- ~~12.04.070 Monument or post—Replacement only by city engineer.~~

~~12.04.010 Established base~~

~~In establishing the grade of the respective streets in the city, the upper surface of a monument set at the center of Fourth Street, thirty feet east from the west line of Main Street, shall be the established base and the grade of each street as established shall be the elevation of the same above or below the base.~~

~~(Ord. 253 §1, 1887).~~

~~12.04.020 Elevations and grades of streets~~

~~Whenever the elevation from one cross street to the next is over five percent, the grade crossing streets shall be five percent and when the same is five percent or less, the grade shall cross the intersection on~~

the same grade as the street, and the outer lines of both intersecting streets shall each be carried across the street they intersect on a true grade of five percent or less in conformity to the grade of the street extended, the elevation in crossing streets in no case to exceed five percent and whenever intersections of streets heretofore graded are not in accordance with the provisions of this section the city engineer shall, upon request of the street committee give proper grades for the execution of the work necessary to make such intersections conform herewith and shall file a report of the grades so given with the city clerk-treasurer; and the street commissioner, under the direction of the committee and engineer, is authorized and required to perform the necessary work.

(Ord. 558 §1, 1891; Ord. 253 §2, 1887).

~~12.04.030 Grading of streets and gutters~~

~~Whenever any street is graded the center of such street shall be graded to the established grade of such street and the gutters shall be graded down eighteen inches below such grade, unless otherwise ordered.~~

~~(Ord. 253 §3, 1887).~~

~~12.04.040 Grading of sidewalks~~

~~Whenever any sidewalk is constructed or rebuilt upon any street where the grade has been established, it shall be constructed on the established grade of such street, unless otherwise ordered.~~

~~(Ord. 253 §4, 1887).~~

~~12.04.050 Bench mark monument—Record~~

~~Whenever the city shall order a monument for a bench mark there shall be filed in the office of the city clerk-treasurer a record of the same showing the nature of the work, the location of the same and the elevation thereof above or below the base as established in this chapter at the corner of Fourth and Main Streets in the city.~~

~~(Ord. 253 §5, 1887).~~

~~12.04.060 Monument or post—Interference with prohibited without prior permission~~

~~It is unlawful for any person or persons within the city limits to remove, change, pull up, deface or destroy, or in any manner interfere with any monument, stake, post or peg established or set by the city engineer or by any of his assistants in the performance of his or their duties as such engineer or assistant; provided, however, this section shall not apply to any contractor who may be obliged to remove such monument, stake, post or peg in the performance of his contract, provided the contractor shall first notify the city engineer of the necessity of such removal and obtain permission from him to do so.~~

~~12.04.070 Monument or post – Replacement only by city engineer~~

~~No person, except the city engineer, shall attempt to replace any monument, stake, post or peg which has been removed, changed, pulled up or destroyed either by accident or otherwise.~~

~~(Ord. 1005 §2, 1909).~~

Section 15. Amendment of OMC 13.12.210. Olympia Municipal Code Section 13.12.210 is hereby amended to read as follows:

13.12.210 Waste management general facility charges

A. Waste. There shall hereafter be assessed a waste management general facility charge ("Waste Management GFC") for providing waste management services to any premises as shown in Title 4 of this code.

B. Except as provided in subsection C below, the Waste Management GFC shall be assessed at the time of building permit application. This charge shall be assessed in addition to any other charges or assessments levied under this chapter. The amount of the Waste Management GFC shall be administratively increased each month at a rate equal to the ENR construction cost index, or at the rate of one-half of one percent, whichever is more. Said funds shall be deposited in a separate account called the waste management trust fund and used only for capital expenditures related to the purchase of containers, equipment or start-up of new programs.

C. The Waste Management GFC may be deferred for residential developments in the Downtown Deferred General Facility Charge Payment Option Area. An unpaid Waste Management GFC deferred under this section shall constitute a lien against the property for which it is payable. Payment of Waste Management GFC need not be made prior to the time of connection if the payer provides the Community Planning and Development Department with proof that a Voluntary General Facility Charge Lien Agreement, in a form approved by the City Attorney, has been executed by all legal owners of the property upon which the development activity allowed by the building permit is to occur, and the agreement has been recorded in the office of the Thurston County Auditor. When such deferral is sought for a portion of the development activity, the City, at its sole discretion, shall determine the portions of the Waste Management GFC to be applied to the portions of the development activity. If a Voluntary General Facility Charge Lien Agreement has been recorded, payment of the general facility charge shall be deferred under the following conditions:

1. The Waste Management GFC will be assessed at the rate in effect at the time of issuance of the building permit for the project, and
2. Payment of the Waste Management GFC will be made at the earlier of the closing of sale of the property or any portion of the property, or three (3) years from the date of the City's issuance of a Certificate of Occupancy for the property against which the Waste Management GFC is assessed, and

3. A GFC payment made within one (1) year of issuance of the Certificate of Occupancy for the development shall pay the fees assessed at the time of issuance of the building permit, or
4. A GFC payment made within the second year from issuance of the Certificate of Occupancy for the development shall pay the Waste Management GFC plus interest, for a total of 105% of the fees assessed at the time of issuance of the building permit, or
5. A GFC payment made within the third year from issuance of the Certificate of Occupancy for the development shall pay the Waste Management GFC plus interest, for a total of 110% of the fees assessed at the time of issuance of the building permit.

In the event that the Waste Management GFC and/or interest (if any) is not paid within the time provided in this subsection, all such unpaid charges, fees and interest shall constitute a lien against the property for which they were assessed. The lien may be enforced either by foreclosure pursuant to RCW 61.12 or by termination of water service pursuant to Section ~~13.04.43~~13.04.430 of this Code. The City may use other collection methods at its option. In the event of foreclosure, the owner at the time of foreclosure shall also pay the City's reasonable attorney fees and costs incurred in the foreclosure process. Notwithstanding the foregoing, the City shall not commence foreclosure proceedings less than thirty (30) calendar days prior to providing written notification to the then-present owner of the property via certified mail with return receipt requested advising of its intent to commence foreclosure proceedings. If the then-present owner cures the default within the thirty-day cure period, no attorney fees and/or costs will be owed.

The deferred payment option set forth in this subsection shall terminate on August 1, 2009, unless otherwise re-authorized by the City Council.

Section 16. Amendment of OMC 13.16.080. Olympia Municipal Code Section 13.16.080 is hereby amended to read as follows:

13.16.080 Storm drainage system general facilities charge

A. In recognition of the city's investment in the storm drainage system, each applicant for a development permit shall pay a storm drainage system general facilities charge ("Storm Drainage GFC") in an amount as set forth in Title 4 of this code at the time of issuance of a building/engineering permit, except as provided below.

B. The Storm Drainage System GFC may be deferred for residential developments in the Downtown Deferred General Facility Charge Payment Option Area. An unpaid Storm Drainage GFC deferred under this section shall constitute a lien against the property for which it is payable. Payment of the Storm Drainage GFC need not be made prior to the time of connection if the payer provides the Community Planning and Development Department with proof that a Voluntary General Facility Charge Lien Agreement, in a form approved by the City Attorney, has been executed by all legal owners of the property upon which the development activity allowed by the building permit is to occur, and the agreement has been recorded in

the office of the Thurston County Auditor. When such deferral is sought for a portion of the development activity, the City, at its sole discretion, shall determine the portions of the Storm Drainage GFC to be applied to the portions of the development activity. If a Voluntary General Facility Charge Lien Agreement has been recorded, payment of the general facility charge shall be deferred under the following conditions:

1. The Storm Drainage GFC will be assessed at the rate in effect at the time of issuance of the building permit for the project, and
2. Payment of the Storm Drainage GFC will be made at the earlier of the closing of sale of the property or any portion of the property, or three (3) years from the date of the City's issuance of a Certificate of Occupancy for the property against which the Storm Drainage GFC is assessed, and
3. A GFC payment made within one (1) year of issuance of the Certificate of Occupancy for the development shall pay the fees assessed at the time of issuance of the building permit, or
4. A GFC payment made within the from issuance of the Certificate of Occupancy for the development shall pay the Storm Drainage GFC plus interest, for a total of 105% of the fees assessed at the time of issuance of the building permit, or
5. A GFC payment made within the third year from issuance of the Certificate of Occupancy for the development shall pay the Storm Drainage GFC plus interest, for a total of 110% of the fees assessed at the time of issuance of the building permit.

In the event that the Storm Drainage GFC and/or interest (if any) is not paid within the time provided in this subsection, all such unpaid charges, fees and interest shall constitute a lien against the property for which they were assessed. The lien may be enforced either by foreclosure pursuant to RCW 61.12 or by termination of water service pursuant to Section ~~13.04.43~~ 13.04.430 of this Code. The City may use other collection methods at its option. In the event of foreclosure, the owner at the time of foreclosure shall also pay the City's reasonable attorney fees and costs incurred in the foreclosure process. Notwithstanding the foregoing, the City shall not commence foreclosure proceedings less than thirty (30) calendar days prior to providing written notification to the then-present owner of the property via certified mail with return receipt requested advising of its intent to commence foreclosure proceedings. If the then-present owner cures the default within the thirty-day cure period, no attorney fees and/or costs will be owed.

The deferred payment option set forth in this subsection shall terminate on August 1, 2009, unless otherwise re-authorized by the City Council.

C. All monies collected from the general facilities charge will be deposited in an account to be used for the capital improvements program of this utility.

Section 17. Amendment of OMC 15.04.020. Olympia Municipal Code Subsection 15.04.020 is hereby amended to read as follows:

15.04.020 - Definitions

The following words and terms shall have the following meanings for the purposes of this title, unless the context clearly requires otherwise. Terms otherwise not defined herein shall be defined pursuant to RCW 82.02.090, or given their usual and customary meaning.

A. "Act" means the Growth Management Act, as codified in RCW 36.70A, as now in existence or as hereafter amended.

B. "Accessory Dwelling Unit" means a dwelling unit that has been added onto, created within, or separated from a single-family detached dwelling for use as a complete independent living unit with provisions for cooking, eating, sanitation, and sleeping.

C. "Building Permit" means an official document or certification which is issued by the Building Official and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure.

D. "Capital Facilities" means the facilities or improvements included in a capital budget.

E. "Capital Facilities Plan" means the capital facilities plan element of a comprehensive plan adopted by the City of Olympia pursuant to Chapter 36.70A RCW, and such plan as amended.

F. "City" means the City of Olympia.

G. "Council" means the City Council of the City of Olympia.

H. "Concurrent" or "Concurrency" means that the improvements are in place at the time the impacts of development occur, or that the necessary financial commitments are in place, which shall include the impact fees anticipated to be generated by the development, to complete the improvements necessary to meet the specified standards of service defined in the Parks Study, the Transportation Study, and the Schools Study within six (6) years of the time the impacts of development occur.

I. "County" means Thurston County.

J. "Department" means the Department of Community Planning and Development.

K. "Development Activity" means any construction, expansion, or change in the use of a building or structure that creates additional demand and need for public facilities.

L. "Development Approval" means any written authorization from the City of Olympia which authorizes the commencement of a development activity.

M. "Director" means the Director of the Department of Community Planning and Development or the Director's designee.

N. "District No. 111" means the Olympia School District No. 111, Thurston County, Washington.

O. "Downtown Impact Fee Payment Area" means all properties located within the downtown area, which is currently bounded by: Budd Inlet on the north; Budd Inlet and Capitol Lake on the west; along 14th Avenue extending between Capitol Lake and Capitol Way, then east on 14th Avenue extending to Interstate 5 on the south; Eastside Street on the east; and along Olympia Avenue in a westerly direction reconnecting with the Budd Inlet on the north, including properties owned by the Port of Olympia, as shown in Figure 15-04-1.

P. "Dwelling Unit" means a single unit providing complete and independent living facilities for one or more persons, including permanent facilities for living, sleeping, eating, cooking, and sanitation needs.

Q. "Elderly" means a person aged 62 or older.

R. "Encumbered" means to reserve, set aside, or otherwise earmark the impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for public facilities.

S. "Feepayer" is a person, corporation, partnership, an incorporated association, or any other similar entity, or department or bureau of any governmental entity or municipal corporation commencing a land development activity which creates the demand for additional capital facilities, and which requires the issuance of a building permit. "Feepayer" includes an applicant for an impact fee credit.

T. "Gross Floor Area" means the total square footage of any building, structure, or use, including accessory uses.

U. "Hearing Examiner" means the Examiner who acts on behalf of the Council in considering and applying land use regulatory codes as provided under Chapter ~~18.71~~18.82 of the Olympia Municipal Code. Where appropriate, "Hearing Examiner" also refers to the office of the hearing examiner.

V. "Impact fee" means a payment of money imposed by the City of Olympia on development activity pursuant to this title as a condition of granting development approval in order to pay for the public facilities needed to serve new growth and development. "Impact fee" does not include a reasonable permit fee, an application fee, the administrative fee for collecting and handling school impact fees, or the cost of reviewing independent fee calculations.

W. "Impact Fee Account" or "Account" means the account(s) established for each type of public facility for which impact fees are collected. The Accounts shall be established pursuant to Sections 15.04.100 and 15.04.110 of this title, and comply with the requirements of RCW 82.02.070.

X. "Independent Fee Calculation" means the park impact calculation, the school impact calculation, the transportation calculation, and/or economic documentation prepared by a feepayer, to support the assessment of an impact fee other than by the use of Schedules A, C and D of Chapter 15.16, or the calculations prepared by the Director or District No. 111 where none of the fee categories or fee amounts in the schedules in Chapter 15.16 accurately describe or capture the impacts of the new development on public facilities.

Y. "Interest" means the average interest rate earned by the City of Olympia or District No. 111 with respect to school fees in the last fiscal year, if not otherwise defined.

Z. "Interlocal Agreement" or "Agreement" means the school interlocal agreement by and between the City of Olympia and District No. 111 as authorized in Section 15.04.110 herein.

AA. "Occupancy Permit" means the permit issued by the City of Olympia where a development activity results in a change in use of a pre-existing structure.

BB. "Open Space" means for the purposes of this title undeveloped public land that is permanently protected from development (except for the development of trails or other passive public access or use).

CC. "Owner" means the owner of record of real property, or a person with an unrestricted written option to purchase property; provided that, if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the owner of the real property.

DD. "Parks" means parks, open space, and recreational facilities, including but not limited to ball fields, golf courses, athletic fields, soccer fields, swimming pools, tennis courts, volleyball courts, neighborhood parks, community parks, special use parks, trails, and open space.

EE. "Parks Study" means the Rate Study for Impact Fees for Park Land July 23, 2007 and as may be amended in the future.

FF. "Planned Residential Development" or "PRD" shall have the same meaning as set forth in Chapter 18.56 of the Olympia Municipal Code.

GG. "Project Improvements" mean site improvements and facilities that are planned and designed to provide service for a particular development or users of the project, and are not system improvements. No improvement or facility included in a capital facilities plan adopted by the Council shall be considered a project improvement.

HH. "Public Facilities" means the following capital facilities owned or operated by the City of Olympia or other governmental entities: (1) publicly owned parks, open space, and recreational facilities; (2) public streets, and roads; and (3) public school facilities.

II. "Residential" or "Residential Development" means all types of construction intended for human habitation. This shall include, but is not limited to, single-family, duplex, triplex, and other multifamily development.

JJ. "Schools Study" means the "Olympia School District - Rate Study for Impact Fees for School Facilities, 1994," and as may be amended in the future.

KK. "Single Room Occupancy Dwelling" means a housing type consisting of one room, often with cooking facilities and with private or shared bathroom facilities.

LL. "Square Footage" means the square footage of the gross floor area of the development.

MM. "State" means the State of Washington.

NN. "System Improvements" means public facilities that are included in the City of Olympia's capital facilities plan and are designed to provide service to service areas within the community at large, in contrast to project improvements.

OO. "Transportation Study" means the City of Olympia Transportation Impact Fee Program Update dated December 2008, and as may be amended in the future.

Section 18. Amendment of OMC 16.58.030. Olympia Municipal Code Section 16.58.030 is hereby amended to read as follows:

16.58.030 Scope

The provisions of this Chapter shall apply to the planting, maintenance, removal, and protection of all public trees as defined in this ordinance.

A. Trees on lands managed by the City of Olympia Parks, Recreation and Cultural Services Department. Tree removal, pruning and/or planting in these areas shall be subject to review and approval of the Parks, Recreation and Cultural Services Department.

B. Trees on lands managed by the City of Olympia, for storm water management purposes. Tree removal, pruning and/or planting in these areas shall be subject to review and approval of the Public Works Department.

C. Trees within critical areas as defined in ~~OMC-14.10~~18.32. Tree removal in these areas will be subject to review and approval of the City's Environmental Review Authority.

Section 19. Amendment of OMC 17.16.080. Olympia Municipal Code Section 17.16.080 is hereby amended to read as follows:

17.16.080 Public hearing –Approval procedure

Preliminary plat applications shall be processed in accordance with the provisions of this title, Chapters 18.78, 18.82, and Chapter 14.04 of this code. Approval of a preliminary plat by the hearing examiner is final and conclusive unless appealed to the City Council pursuant to the procedures set out in Chapter 18.75 of this code.

Section 20. Amendment of OMC 18.05.080(G). Olympia Municipal Code Subsection 18.05.080(G) is hereby amended to read as follows:

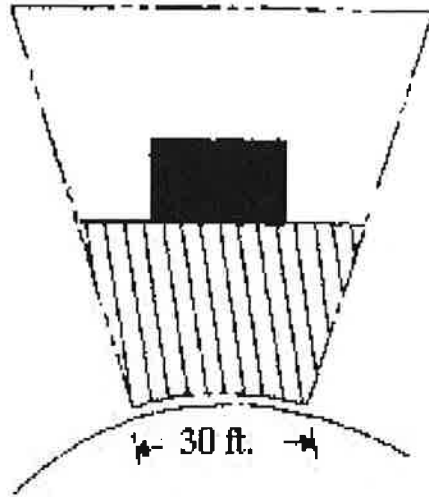
18.05.080 Development standards

G. Lot Width.

1. Measurement. The minimum lot width required by Table 5.05 shall be measured between the side lot lines at the point of intersection with the minimum front setback line established in Table 5.05.
2. Varied Lot Widths. The width of residential lots in the NC, NV, UV and COSC districts shall be varied to avoid monotonous development patterns.
 - a. No more than three (3) consecutive lots, uninterrupted by a street, shall be of the same width. This requirement does not apply to townhouses.
 - b. Lot widths shall be varied by a minimum of six (6) foot increments.
 - c. The minimum lot widths specified in Table 5.05 may be reduced by six (6) feet for individual lots to provide variety, provided that the average lot width for the project is no less than the minimum lot width required by Table 5.05.

3. Minimum Street Frontage.

a. Each residential lot, other than for townhouse and cottage housing, shall have a minimum of thirty (30) feet of frontage on a public



street.

FIGURE 5-2

b. EXCEPTION: the City may allow the street frontage to be reduced (creating a flag lot) to the minimum extent necessary to enable access to property where public street access is not feasible (e.g., due to physical site conditions or preexisting development) or to protect environmentally Critical Areas (see Chapter 14.10, Olympia Municipal Code 18.32 OMC).

c. Subdivisions, short subdivisions, binding site plans, and lot line adjustments creating flag lots (with street frontages of less than thirty (30) feet) are subject to the following conditions:

- i. The project shall be designed to minimize the creation of flag lots; and
- ii. Adjoining flag lots shall share a common driveway wherever possible; and
- iii. All driveways accessing flag lots shall be designed to allow fire truck access to within one hundred fifty (150) feet of the residence(s) on the lot(s), unless alternate forms of fire protection approved by the Fire Department are provided (e.g., sprinkler systems); and
- iv. The area of a flag lot which is less than thirty (30) feet in width shall not be considered part of the minimum lot area required in Table 5.05.

Section 21. Amendment of OMC 18.05.080(N). Olympia Municipal Code Subsection 18.05.080(N) is hereby amended to read as follows:

18.05.080 Development standards

N. Private and Common Open Space.

1. Development of Open Space.

a. Open space required by Table 5.05 shall be devoted to undisturbed native vegetation, landscaping, and/or outdoor recreational facilities. Driveways, loading areas, maneuvering space and parking lots shall not be considered part of this required space.

b. Required open space shall not be covered with impervious surfaces, except for walkways, tennis and basketball courts, swimming pools, or similar recreational uses which require an impervious surface.

c. The Director or Hearing Examiner may increase the impervious surface coverage limits specified in Table 5.05 by up to five (5) percent to accommodate the walkways and recreational uses listed above (see also Chapter 18.36, Landscaping and Screening).

2. Villages and Community Oriented Shopping Centers.

a. Neighborhood villages, urban villages, and community oriented shopping centers shall contain at least five (5) percent open space available for public use or common use. Ownership of open space areas and type of access will be determined during the Master Planned Development review (see Chapter 18.57, OMC). As much as fifty (50) percent of this open space may be comprised of environmentally Critical Areas and associated buffers (see Chapter ~~14.10~~18.32, OMC).

b. Neighborhood villages, neighborhood centers, urban villages, and community oriented shopping centers must contain a neighborhood park or "green" between one (1) and four (4) acres in size located in the village or community center. This park, green, or plaza shall have an average slope no greater than five (5) percent; adequate drainage to allow active use in summer; and a width and length of no less than one hundred and fifty (150) feet.

3. Cottage Housing Developments.

a. A minimum of two hundred (200) square feet of private, contiguous, usable, open space shall be provided adjacent to each dwelling unit. No dimension of this open space area shall be less than ten (10) feet.

b. A minimum of fifteen hundred (1500) square feet or two hundred (200) square feet per unit, whichever is more, shall be provided in common open space (e.g., available for the use of all residents of the cottage housing development). This open space shall be contained in a contiguous area with no dimension less than thirty (30) feet. Such open space shall be sufficiently level (e.g., less than five (5) percent slope) and well drained to enable active use in summer.

4. Multifamily Housing.

a. In neighborhood villages, urban villages, and community oriented shopping centers, parcels or sites accommodating multifamily housing (e.g., triplexes, fourplexes, and larger apartment buildings) shall contain at least thirty (30) percent open space. However, such multifamily housing within one hundred (100) feet of a neighborhood park, green, or public or common open space, which is at least ten thousand (10,000) square feet in size, shall only be required to retain fifteen (15) percent of the site in open space. Impervious surface coverage requirements shall be adjusted accordingly.

b. At least fifty (50) percent of the open space required in 18.05.080(N)(4)(a) above shall be available for the common use of all residents of the multifamily housing.

c. Common open space shall be contiguous with the housing site (e.g., not separated from the dwellings by streets or barriers that impede pedestrian access) and shall be sufficiently level (e.g., five (5) percent average slope) and well drained to allow active use in summer. No dimension shall be less than fifteen (15) feet.

Section 22. Amendment of OMC 18.12.090. Olympia Municipal Code Section 18.12.090 is hereby amended to read as follows:

18.12.090 Heritage Register - Alteration and Construction

A. Applicability. (See Design Guidelines, Sections 18.105.020 and 18.105.030, Remodeled Historic Buildings.) No person shall construct any new building or structure, or reconstruct, alter, restore, remodel, repair or demolish any existing building or structure which is on the Heritage Register or within a Historic District without review by the Heritage Commission, the Heritage Review Committee, or Joint Design Review, as required by OMC 18.12.070 and 18.76 180. The review shall apply only to exterior or interior features designated as significant and relating to the designation of the property to the Heritage Register and interior features for historically significant interior spaces of public buildings, including privately owned buildings open to the public; provided, that this section shall have no application to ordinary repair and maintenance, including painting, or Emergency Repair measures as defined in Chapter 18.02, Definitions. Violation of this rule shall be grounds for the Heritage Commission to review the property for removal from the Heritage Register. The review shall be based upon OMC ~~18.105.202~~ 18.105.020 and 18.105.030.

Section 23. Amendment of OMC 18.32.105. Olympia Municipal Code Section 18.32.105 is hereby amended to read as follows:

18.32.105 General Provisions - Critical Area Development Regulations

A. This Chapter shall constitute the City of Olympia development regulations for the following critical area categories:

1. General Provisions and standards which apply to the critical area categories are contained in OMC 18.32.100,
2. Drinking Water (Wellhead) Protection Areas provisions are contained in OMC 18.32.200,
3. Important Habitats and Species provisions are contained in OMC 18.32.300,
4. Stream and Important Riparian Areas provisions are contained in OMC 18.32.400,
5. Wetlands and Small Lakes provisions are contained in OMC 18.32.500, and
6. Landslide Hazard Areas, provisions are contained in OMC 18.32.600.

B. The development regulations for Frequently Flooded Areas are contained in OMC 16.06.

C. The development regulations for Erosion Hazards Areas are contained in OMC 13.16.

D. The development regulations for ~~Aquifer Recharge Protection~~ Drinking Water (Wellhead) Protection Areas are contained in OMC 18.32.200 and 18.40.080 ~~and OMC 14.20~~.

E. The development regulations for Marine Shorelines and Lake Shorelines as defined by the Shoreline Management Act are contained in OMC 14.08.

Section 24. Amendment of OMC 18.32.205. Olympia Municipal Code Section 18.32.205 is hereby amended to read as follows:

18.32.205 Drinking Water (Wellhead) Protection Areas - Applicability and Designation

A. "Drinking Water (Wellhead) Protection Area" shall include the surface and subsurface area surrounding a water well or well field supplying a public water supply system with over one thousand (1,000) connections through which contaminants are reasonably likely to move toward and reach such well or well field within six (6) months, and one (1), five (5), and ten (10) years; for which the water purveyor has adopted a wellhead protection plan; and which said plan has been either formally proposed by the City to the Washington Department of Health pursuant to WAC 246-290-135 (3) ~~and~~ and WAC 246-290-100 (2) or approved by the Washington State Department of Health. ~~See Figure 1.~~

The periods of time (six months and one, five and ten years) for movement of a contaminant toward a ~~drink-of-wazter~~ drinking water well define "time-of-travel zones." These zones establish areas around a drinking water source within which these wellhead protection measures apply.

An Extended Capture Zone can be designated outside the ten year zone if it is determined that surface water flows within that zone will discharge into the Wellhead Protection Area. All of the capture zones are considered part of the Drinking Water (Wellhead) Protection Zone.

Maps adopted pursuant to WAC 246-290-135 (3) and WAC 246-290-100 (2) which are hereby adopted by reference as though fully set forth herein, shall constitute the ~~Drining-Drinking~~ Drinking Water (wellhead) Protection Areas. Three copies of these maps shall be kept on file in the office of the City Clerk.

Section 25. Amendment of OMC 18.32.225. Olympia Municipal Code Section 18.32.225 is hereby amended to read as follows:

18.32.225 Drinking Water (Wellhead) Protection Areas - Minimum Mitigation Standards

A. Every application for a non-exempt development permit within a drinking water (wellhead) protection area shall meet these minimum standards for mitigation:

1. If the proposal indicates the use, storage, handling or disposal of hazardous materials above the minimum quantity thresholds listed in 18.32.235, the applicant shall submit a hazardous materials management (spill) plan as outlined in 18.32.235.

2. Landscaping and irrigation plans that mitigate the leaching of soluble contaminants into groundwater. These plans shall meet the requirement of OMC 18.36 and in addition incorporate the following requirements:

a. Within the landscape plans, the Stormwater Operations and Maintenance Agreement, and the Conditions, Covenants and Restrictions regarding fertilizers, insert the following specific passage, "Only slow release fertilizers shall be applied for the life of the development at a maximum amount of 4 lbs of nitrate as Nitrogen annually and no more than 1 lb. per application for every 1,000 square feet of turf grass. Only fertilizer formulas with a minimum of 50% water insoluble form of nitrogen are permitted for use. Approved water insoluble forms of nitrogen include sulfur and/or polymer coated fertilizers, Isobutylidene Diurea (IBDU), Methylene Urea and Ureaform, and organic fertilizers ~~registered~~ registered with Washington Department of Agriculture."

b. The total turf area of the development will be ~~imited~~ limited to 25% of the total regulated landscaped area. All additional plantings will include native and/or drought tolerant plants as listed in the Thurston County Common Sense Gardening Plant List or a similar list approved by the above department.

c. Irrigation systems shall be designed and managed to maximize efficient use of water. Lawns will not be watered more than a depth of 1 inch per week over the area of turf. An irrigation consultation will be required at the time the irrigation system is installed to determine precipitation rates and uniformity of system. Consultations will be conducted by an Irrigation Association Certified Landscape Irrigation auditor.

3. A well inventory report. Any existing wells shall be identified on a map, with an assessment of their condition, photographs and well logs (if available). Wells that are not being used for ongoing domestic water use, irrigation or monitoring will be decommissioned by the applicant following the procedures in WAC 173-160-381.

4. A grant to the Department for the purposes of:

a. Providing pollution prevention outreach to residents, employees, and contractors. Access may include but is not limited to: interpretive sign installation, model home displays, demonstration sites, conducting interviews and surveys, observing practices, and distributing informational materials.

b. Ensuring compliance with items described under 18.32.225, section A above.

c. The grant of access shall be included in the Stormwater Operations and Maintenance Agreement and the Conditions, Covenants, and Restrictions for the project.

B. A dedicated groundwater monitoring well is required in situations where infiltration of stormwater is proposed, or where other groundwater contamination risks or monitoring needs are identified. The wells will be installed and equipped by the applicant to city standards.

C. The city may allow alternatives to the minimum mitigation standards described in this section in unique conditions and on a case-by-case basis when the applicant demonstrates that:

1. The project has been evaluated by a Hydrogeological Report as described in OMC 18.32.230; and

2. Based upon the Hydrogeological Report and the best available science the proposed alternative mitigation measures will be adequate to protect the drinking water source.

Section 26. Amendment of OMC 18.32.500. Olympia Municipal Code Section 18.32.500 is hereby amended to read as follows:

18.32.500 Wetlands and Small Lakes - Purpose and Intent

In order to protect the natural function of wetlands and "small lakes" for floodwater storage, floodwater conveyance, sediment control, pollution control, surface water supply, aquifer recharge, wildlife habitat, and recreation, those lands with wetlands and "small lakes" or which lie within three hundred (300) feet of wetlands and "small lakes" shall be subject to the standards in OMC 18.32.505 through OMC ~~13.32.595~~ 18.32.595.

Section 27. Amendment of OMC 18.75.060. Olympia Municipal Code Section 18.75.060 is hereby amended to read as follows:

18.75.060 Reconsideration of hearing examiner decision

Decisions of the hearing examiner ~~on an administrative appeal~~ may be reconsidered. Further, prior to issuing a decision, the Examiner may reconvene any hearing or continue any other proceeding in such manner as the Examiner deems appropriate to ensure a fair, timely, and reasoned decision.

A. After issuance of a final decision any party, including the Department of Community Planning and Development, may file a motion for reconsideration on an appeal to the Hearing Examiner in accordance with subsection (B) of this Section. Such motion must be filed within ten days of service of the final decision. The original of the motion for reconsideration shall be filed at the Community Planning and Development Permit Center with a copy to the Olympia City Attorney's Office. At the same time, copies shall be served on all parties of record. Within five days of filing the motion for reconsideration, a party may file an answer to the motion for reconsideration without direction or request from the ~~board~~ Hearing Examiner. The Hearing Examiner may require other parties to supply an answer. All answers to motions for reconsideration shall be served on all parties of record.

B. A motion for reconsideration shall be based on at least one of the following grounds:

1. Errors of procedure or misinterpretation of fact or law, material to the party seeking reconsideration;
2. Irregularity in the hearing before the Hearing Examiner by which such party was prevented from having a fair hearing; or
3. Clerical mistakes in the final decision and order.

C. In response to a motion for reconsideration, the Hearing Examiner may deny the motion, modify its decision, or reopen the hearing. A motion is deemed denied unless the Hearing Examiner takes action within 20 days of the filing of the motion for reconsideration. A Hearing Examiner order on a motion for reconsideration is not subject to a motion for reconsideration.

D. A decision in response to the petition for reconsideration shall constitute a final decision and order for purposes of judicial review. Copies of the final decision and order shall be served on each party or the party's attorney or other authorized representative of record, unless the decision is deemed denied following the 20-day time frame set forth in Subsection C of this Section.

E. The time for an appeal to court does not commence until disposition of the motion for reconsideration. If the Hearing Examiner takes no action under subsection (3C) of this Section, the motion for reconsideration is deemed disposed at the end of the 20-day period. The filing of a motion for reconsideration is not a prerequisite for seeking judicial review.

Section 28. Amendment of OMC 18.76.180. Olympia Municipal Code Section 18.76.180 is hereby amended to read as follows:

18.76.180 Joint Review Committee

A. A Joint Review Committee comprised of five (5) members from the Design Review Board and four (4) members of the Heritage Commission shall act as the Design Review Board for all structures within the design review areas which are listed on the Washington Heritage Register, the National Register of Historic Places or the Olympia Heritage Register.

B. Members will be appointed to the Joint Review Committee from the Design Review Board and Heritage Commission for a term of one (1) year by the chairs of each body. Members may be reappointed for subsequent one (1) year terms.

C. The provisions, standards and criteria of OMC 18.12, 18.105.020, ~~18.105.130~~ 18.105.030 shall apply to any project considered by the Joint Review Committee provided that when a structure listed on a historic register is reviewed, the provisions of Section 18.12.090 of the Olympia Municipal Code shall also apply.

Section 29. Amendment of OMC 18.86.080. Olympia Municipal Code Section 18.86.080 is hereby amended to read as follows:

18.86.080 Responsibilities of associations

Recognized neighborhood associations shall:

A. Provide adequate notice to all members and other eligible participants in their neighborhood of all general membership meetings and the issues to be discussed. Examples of adequate notice include mailings, delivered handbills, or a number of prominent signs.

B. Establish an orderly and democratic means for making representative decisions.

C. Establish and follow a clear method for reporting to the City actions which accurately reflect the neighborhood's position. When a neighborhood association presents its official position on an issue to the City, it shall be prepared to identify whether the decision, was reached by the board, a poll of the general membership, or by a vote at a general membership meeting, and the vote for and against the position.

D. Transmit to the City Manager a copy of the minutes from each annual meeting within sixty (60) days.

E. Comply with its bylaw provisions as specified in Section ~~18.86.60~~ 18.86.060.

F. Notify the City Manager of general membership meetings at least five (5) working days in advance.

G. Notify the City Manager in writing of two (2) addresses where it wishes notice to be sent pursuant to this chapter; such designation shall be furnished by the neighborhood association at least annually, or when appropriate.

Section 30. Amendment of OMC 18.16.080. Olympia Municipal Code Section 18.16.080 is hereby amended to read as follows:

18.16.080 Specific development standards

D. Awnings, Marquees or Canopies, and Arcades ("A" Streets). Awnings, marquees, canopies, and other projections are allowed to project into the ROW. See Downtown Building Design Guidelines Projections into the ROW.

1. Intent. Provide pedestrians rain protection, contribute to overall integration of individual buildings within the streetscape, and help define the pedestrian zone. When awnings are used, they should cover the pedestrian clear zone.
2. Awnings, Marquees or Canopies, and Arcade Requirements.
 - a. Coverage allowed in public rights-of-way. Awnings, canopies, or marquees may project into the public rights-of-way (see Downtown Building Design Guidelines - Projections Into the ROW). Arcades must be on private property.
 - b. Types of material allowed. Awnings, marquees, and canopies must be fabric on a retractable frame, metal, glass, or plexiglass. On historic buildings, wood may be used.
 - c. Area and coverage requirements. Awnings, marquees, and arcades shall be provided along the street wall, or that portion of the street wall that abuts or is parallel to the sidewalk. The maximum depth (projection from street wall) for awnings and marquees or canopies is regulated in the applicable Section of the Uniform Building Code. Awnings, marquees, or canopies should extend to the maximum depth allowed by the UBC, with allowance for street tree and street light clearance. (See Figure 16-4 of this Chapter.)
 - d. Height requirements. Except valances, the lower edge of all awnings, marquees, canopies, and arcades must be between the heights of eight (8) and twelve (12) feet above finished grade. Every attempt should be made to make awnings of like heights on a given block.
 - e. Historic buildings. Historic buildings may be reviewed for exceptions to these standards. Exceptions shall be jointly reviewed by the Design Review Board and Heritage Commission, called the Joint Review Committee or the Heritage Commission and Design Review staff. (See Chapter ~~18.84~~18.12 OMC of this Ordinance.)

Section 31. Amendment of OMC 18.72.080. Olympia Municipal Code Section 18.72.080 is hereby amended to read as follows:

18.72.080 Approval and appeal authorities

The project review process for an application or a permit may include review and approval by one or more of the following processes:

A. Department Staff. Individual staff shall have the authority to review and approve, deny, modify, or conditionally approve, among others, Accessory Buildings, Accessory Dwelling Units, Boundary Line Adjustments, Building Permits and other construction permits exempt from the State Environmental Policy Act, Environmental Determinations, Home Occupation Permits, Minor Design Review (including reviews of undersized lots of record), Short Plats creating 2-9 lots, Sign Permits, Certificates of Occupancy, Temporary Use Permits, Time Extensions, Tree Plans, and Shoreline Exemptions, and to provide interpretations of codes and regulations applicable to such projects.

B. Site Plan Review Committee. Pursuant to Chapter 18.60 the Site Plan Review Committee shall have the authority to conduct pre-submission conferences and to grant, conditionally grant, deny, or modify, land use approvals regarding projects for which a public hearing is not required, and to extend the period of approval for land use approval granted by the Committee or by the Hearing Examiner.

C. Design Review Board. The Design Review Board shall have the authority to review and provide recommendations regarding Major Design Review applications and appeals of administrative Minor Design Review decisions pursuant to OMC Chapter ~~18.50~~18.100, Design Review. With respect to design review criteria, the recommendation of the Board shall always be accorded substantial weight by the decision-maker.

D. Olympia Hearing Examiner. Olympia Hearing Examiner shall have the authority vested pursuant to Chapter 18.82, Hearing Examiner.

E. The City Environmental Review Officer shall administer the State Environmental Policy Act (SEPA), OMC Chapter 14.04 Environmental Policy and OMC Chapter ~~14.10 Interim~~18.32 Critical Areas Ordinance.

F. Shoreline Permit Review Process. See OMC Chapter 14.08 and the Shoreline Master Program for the Thurston Region.

G. Subdivision Review Process. See OMC Title 17.

Section 32. Amendment of OMC 18.82.200. Olympia Municipal Code Section 18.82.200 is hereby amended to read as follows:

18.82.200 Public hearing

Prior to rendering a decision or recommendation on any application, the Hearing Examiner shall hold at least one (1) public hearing thereon, except as otherwise provided for in this code. Notice of the time and place of the public hearing shall be given as provided in Chapter 18.78, Public Notification. If none is specifically set forth, such notice shall be given at least ten (10) days prior to such hearing per OMC ~~18.78.40(A, B and C)~~ 18.78.040. Such hearing may be held jointly with that of any other state or local agency so long as such joint hearing is not prohibited by statute, sufficient notice is given, and the necessary information to hold the hearing has been received.

Section 33. 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 34. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 35. Effective Date. This Ordinance shall be in force and effect five days after its passage by the Olympia City Council and publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Darren Nienaber

DEPUTY CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED: