



## City Council

### Approval of Ordinance Updating Obsolete and Outdated Sections of the Olympia Municipal Code and Correcting Scrivener Errors

**Agenda Date:** 12/17/2013  
**Agenda Item Number:** 4.Q  
**File Number:** 13-1033

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**Type:** ordinance   **Version:** 2   **Status:** Passed

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#### **Title**

Approval of Ordinance Updating Obsolete and Outdated Sections of the Olympia Municipal Code and Correcting Scrivener Errors

#### **Recommended Action**

##### **Committee Recommendation:**

Not referred to a committee.

##### **City Manager Recommendation:**

Move to approve on second reading an ordinance updating obsolete and outdated sections of the Olympia Municipal Code and correcting scrivener errors.

#### **Report**

##### **Issue:**

Consider an ordinance correcting scrivener errors and updating obsolete and outdated sections of the Olympia Municipal Code.

##### **Staff Contact:**

Darren Nienaber, Deputy City Attorney, 360.753.8338

##### **Presenter(s):**

None.

#### **Background and Analysis:**

**The background and analysis information has not changed from the first reading.** The Olympia Municipal Code (OMC) in its current form was adopted in 1982. Since that time, many outdated terms, such as "city commission," have been updated through ordinances amending the OMC, but many other sections still contain the outdated terms. Other examples include City Supervisor instead of City Manager and Streets Commissioner instead of Public Works Director.

The OMC also contains cross references to obsolete or outdated code sections, as well as other outdated references to certain funds. For example, critical area regulations, such as drinking water protection areas, were previously moved from Title 14 to Title 18. However, a number of cross

references to those regulations were not changed. Additionally, there are some provisions of the OMC that have been superseded by later-enacted ordinances.

For example, Ordinance 6514 revised the administrative provisions of the zoning code to make the Hearing Examiner the final decision maker on most land use decisions including preliminary subdivisions. However, the subdivision code (Title 17) contains an outdated provision that says appeals of preliminary plats go to Council. However, this section was superseded by the later-enacted Ordinance 6514. Because it was superseded, the Title 17 provision is proposed to be deleted.

Ordinance 6514 also ratified a motion for reconsideration process that had been authorized by a Court of Appeals case - *Lejeune v. Clallam County*. That case said a motion for reconsideration could be used pursuant to the implicit authority of a quasi-judicial tribunal (for example, a Hearing Examiner or Council), even in the absence of any written code authorizing such a motion. Ordinance 6514 then expressly authorized a motion for reconsideration in the context of land use appeals. The Hearing Examiner has also entertained motions for reconsideration for land use decisions that are not appeals, such as the Hearing Examiner's advisory decision to the City Council on the Trillium Master Plan. Accordingly, the amendment at first glance might appear to expand such motions outside of appeals of land use decisions; however, in staff's view, the amendment just confirms the past practice of the Hearing Examiner as well as court cases.

Chapter 12.04 of the OMC is also proposed to be deleted. This chapter dates back to 1887 and regulates street grades and monuments. Monuments and surveying is now governed by state law, and street grades are governed by the City's Engineering Design and Development standards.

The proposed ordinance corrects many but not all of the errors currently contained in the OMC. It is anticipated that future ordinances will be brought forward for Council consideration as staff identifies additional obsolete or outdate references and cross-references and errors in the OMC.

**Neighborhood/Community Interests (if known):**

None known

**Options:**

1. Move to approve on second reading an ordinance updating obsolete and outdated sections of the Olympia Municipal Code and correcting scrivener errors.
2. Remove some proposed changes from the Ordinance and approve the remainder of the Ordinance.

**Financial Impact:**

None