

CLEARANCES	Initial	Date	Date Received in Council Office:	Agenda date	Assigned to:
Originator: Council Clerk	PK	6/16		7/13/93	Council/Intro
Division Head:				7/27/93	Finance/Council
Dept. Head:					
Prosecutor:	RW	6/2			
Purchasing/Budget:					
Executive:					

SUBJECT:

Ordinance amending various sections of the Whatcom County Code to eliminate out-of-date references to "county commissioners"

ATTACHMENTS:

-Ordinance

SUMMARY STATEMENT:

Please complete sections of box as appropriate & explain the item below.

Related County contract #:	Should Clerk schedule a hearing? NO /xx/ YES / / Requested date:
Amount budgeted for this item/project: \$	Is it (or will it be) within budget? YES / / NO / / (Please explain below)
Budget line item number(s):	

Adoption of this ordinance would eliminate all (to the best of the Clerk's knowledge) references to "county commissioners" in the County Code. In some cases (as in WCC 16.04.010) the reference will remain, because the reference does not imply that any responsibility rests with county commissioners. The Clerk's staff compiled the list of sections containing the out-of-date references, Chief Civil Deputy Prosecutor Randy Watts reviewed the sections and recommended the specific wording changes. Copies of the proposed ordinance will be shared with the Executive and other impacted departments prior to the ordinance's introduction.

ORIGINATOR'S RECOMMENDED ACTION:

The Clerk recommends adoption of the ordinance by July 27.

COMMITTEE ACTION TAKEN:

COUNCIL ACTION TAKEN:

7/27/93: Council adopted the ordinance with amendments. 6-0

ORDINANCE NO. 93-048

AMENDING VARIOUS SECTIONS OF THE WHATCOM COUNTY CODE
TO ELIMINATE OUT-OF-DATE REFERENCES
TO "COUNTY COMMISSIONERS"

WHEREAS, when Whatcom County adopted its Charter and became a Home Rule county, portions of the County Code were carried forward, without change or amendment, during the transition from a commissioner to a council-executive form of government; and

WHEREAS, those portions of the Code sometimes contained references to the "board of county commissioners," even though that governing body no longer exists under the Home Rule Charter; and

WHEREAS, since 1979 some of those Code sections have been amended so that they no longer refer to "county commissioners"; and

WHEREAS, the Whatcom County Code is being re-published by Code Publishing Company in Seattle; and

WHEREAS, it would be appropriate at this time to change the Code to eliminate remaining references to "county commissioners";

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that

6 **Whatcom County Code: Sections Referring to "Commissioners"**

7 **Chapter 2.24 - Boundary Review Board**

8 2.24.040 Members -- Selection. Members of the board shall be selected as follows:

- 9 A. Two by the governor, independently;
- 10 B. One from nominees of the individual mayors of the cities and towns within
11 Whatcom County;
- 12 C. ~~One from nominees of individual members of the board of Whatcom~~
13 ~~County Commissioners~~ One from nominees by the executive, confirmed by the Whatcom
14 County council, as per Whatcom County Home Rule Charter 3.23; and
- 15 D. One from nominees of each special purpose district lying wholly or partly
16 within Whatcom County.

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20 **Chapter 2.30 - Regional Planning**

21 2.30.070 Membership--Designated members--Terms--Categories. A. The
22 membership of the council shall consist of the three ~~two~~ Whatcom County
23 ~~Commissioners~~ Council members; the Whatcom County executive; the mayor and three
24 councilmen of the city of Bellingham; the mayor or designated council member of the
25 cities of Everson, Nooksack, Sumas, Ferndale, Lynden, and Blaine, the county school
26 director, or other designated member of the county board of education, the chairman or
27 other designated member of the Whatcom County soil and water conservation district,
28 the president of the port of Bellingham or other designated member of the port
29 commission and the president or other designated member of the public utility district
30 commission, the chairman of the Lummi business council or other designated member of
31 the Lummi council, the chairman of the Nooksack tribal council or other designated

1 member of the Nooksack council, and the chairman of the Whatcom County opportunity
2 council or other designated member of the opportunity council.

3 B. The terms of council members shall coincide with their elected or appointed
4 terms of office or as determined by the respective legislative bodies.

5 C. There shall be three categories of membership: voting, inactive and associate.

6 1. Voting membership shall apply to representatives of financially
7 participating agencies who maintain regular attendance, not missing more
8 than two consecutive unexcused meetings.

9 2. Inactive membership shall apply to delegates of financially
10 participating agencies not in attendance who have missed the preceding
11 two consecutive meetings, and also to agencies who do not participate
12 financially.

13 3. Associate membership shall be open to any organization or
14 individual by invitation of the council.

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16 2.30.110 Executive board. The internal administration, procedures, practices and
17 programming of the council, and any other duties and responsibilities as may be
18 delegated by the council, shall be vested in an executive board. The executive board shall
19 be composed of the officers of the council; the ~~board of county commissioners~~ **Whatcom**
20 **County council members**; the mayor and two council representatives of the city of
21 Bellingham delegation; and shall include at least one representative of the incorporated
22 cities other than Bellingham; one representative of the Indian tribes; and one
23 representative of the low-income and minority group agencies. If any of the latter three
24 categories are represented among the officers of the council, such category shall not be
25 entitled to any additional representation of the executive board.

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29 **Chapter 2.36 Housing Authority**

30 2.36.050 Low-rent housing project. The ~~board of Whatcom county commissioners~~

1 ~~Whatcom County executive, with the approval of the County Council, enters into~~
2 ~~agreements on behalf of the County for~~ approves the development, construction and
3 ownership by the local authority of low-rent housing projects, developed or acquired by
4 the local authority with financial assistance of the United States of America acting
5 through the Secretary of Housing and Urban Development, pursuant to an agreement
6 entered into between the ~~board of commissioners of~~ Whatcom County and the Whatcom
7 County housing authority dated September 5, 1972.

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11 **Chapter 2.48 Opportunity Council**

12 2.48.020 Authority. The council shall have full authority to determine its own
13 policies, organization and activities, and shall enjoy the general sponsorship of ~~the board~~
14 ~~of~~ Whatcom County ~~commissioners~~ subject to the requirement that specific programs
15 and financial participation involving ~~the board of~~ Whatcom County ~~commissioners~~ shall
16 be submitted for approval.

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21 **Chapter 2.56 Defense and Indemnification of Employees**

22 2.56.020 Defense--Reimbursement--Support of findings required. A. The county of
23 Whatcom may provide legal services for the defense of any of its officers, officials, agents
24 or employees when a suit against them arises out of an official act, if the requirements of
25 this section are met. Whether a defense will be provided by the county will be
26 determined by the county ~~commissioners~~ ~~council~~ pursuant to a determination of merit in
27 each case. Such a defense will not necessarily be for the benefit of the officer or
28 employee but mere in support of his or her actions on behalf of the county. An attorney
29 may be hired especially for the purpose of any such defense at county expense, or these
30 services may be provided by the office of the prosecuting attorney, or county officials or

1 employees may be reimbursed for the costs of legal services they have incurred.

2 B. Such services or reimbursement may be provided to both past and present
3 officers and employees as long as the cause of action arose as a result of acts or
4 omissions occurring during their tenure of office or employment. Such defense or
5 reimbursement may be provided although it may turn out that the officer or employee
6 exceeded his legal rights and authorities. Such defense may also be provided even though
7 the result at a trial at law clearly shows that the acts were illegal; provided, such acts
8 were done by the officers or employees in the bona fide discharge of their duties. On the
9 other hand, legal services will not be provided to officers or employees of the county to
10 defend a charge of official misconduct or to defend the right to hold office.

11 C. Before a defense may be provided for an officer or employee, the decision of
12 the ~~board of county commissioners~~ **Whatcom County council** must be supported by
13 findings, in the record, qualifying the action as in conformity with the standard
14 established by this chapter.

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16 2.56.030 Findings. Before authorizing the defense by the county of one of its
17 officers, officials, agents or employees, the ~~board of commissioners~~ **county council** must
18 affirmatively find the following:

19 A. The official or employee must have been acting in a matter in which the
20 county had an interest;

21 B. The official or employee must have been acting in the discharge of a duty
22 imposed or authorized by law;

23 C. The official or employee must have acted in good faith.

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25 2.56.060 Operation of county vehicles--On call defined. A. Those county
26 employees operating county vehicles to and from work shall be deemed to be acting in a
27 manner in which the county has an interest only when those employees are actually on
28 call or are authorized to do so in writing by the ~~board of county commissioners~~ **county**
29 **council executive**.

30 B. No county vehicle shall be operated by any employee for transportation to and

1 from work unless that employee is on call or is authorized to do so in writing by the
2 ~~board of county commissioners~~ county executive.

3 C. An employee is "on call" on any day when:

4 1. He or she has a duty to respond to emergency calls outside of normal
5 working hours; or

6 2. He or she is performing county business outside of normal working
7 hours where a county vehicle is reasonably necessary for the performance of such
8 business; or

9 3. The county-owned vehicle he or she is driving is an authorized
10 emergency vehicle as defined by RCW 46.04.040.

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14 **Chapter 2.64 Employees--Miscellaneous Provisions**

15 2.64.030 Discrimination with reference to employees' affiliations prohibited. There
16 shall be no discrimination of employees of Whatcom County, ~~under the jurisdiction of~~
17 ~~the board of commissioners of the county,~~ with reference to their affiliation with any
18 organization or union.

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22 **Chapter 5.08 Carnivals**

23 5.08.030 Permit--Application--Investigation--Cost held in trust--Compliance with
24 provisions. A. Upon receipt of such application, the original shall be referred to the
25 sheriff who shall cause such investigation of the applicant's business and moral character
26 to be made as he deems necessary for the protection of the public good.

27 B. The sheriff shall submit an itemized statement of such cost of investigation to
28 the auditor, who shall draw a check for the amount on the two hundred dollars held in
29 trust, in payment of said costs.

30 C. Any balance remaining of the two hundred dollars shall be returned by the

1 auditor to the applicant after the close of the carnival and the ~~county commissioners are~~
2 ~~county executive is~~ satisfied that all labor and material liens are satisfied, that all debris,
3 refuse and rubbish are removed from the premises to the satisfaction of an examining
4 officer and that all provisions of the permit and license have been complied with.
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6 5.08.070 Revocation of permit--Causes specified. Permits issued under the
7 provisions of this chapter may be revoked by the action of the ~~board of county~~
8 ~~commissioners~~ ~~county executive~~ of Whatcom County after notice and hearing, for any of
9 the following causes:

10 A. Fraud, misrepresentation, or false statement contained in the application for
11 permit;

12 B. Fraud, misrepresentation or false statement, made in the course of carrying on
13 the business of operation of the carnival;

14 C. Any violation of this chapter, or any violation of state law by either the
15 applicant or his agents, or persons engaged in operating concessions or devices
16 authorized or permitted by the applicant;

17 D. Conviction of any crime or misdemeanor involving moral turpitude.
18

19 5.08.090 Denial of permit--Appeal--Hearing. A. Any person aggrieved by the
20 action of the sheriff or the county auditor in the denial of a permit or license as provided
21 in Section 5.08.040 shall have the right of appeal to the ~~board of county commissioners~~
22 ~~of the county of~~ Whatcom ~~County council~~. Such appeal shall be taken by filing with the
23 ~~board of county commissioners,~~ ~~clerk of the county council~~ within fourteen days after
24 notice of the action complained of has been mailed to such person's last known address,
25 a written statement setting forth fully the grounds for the appeal.

26 B. The ~~board of county commissioners~~ ~~county council~~ shall set a time and place
27 for a hearing on such appeal and notice of such hearing shall be given to the appellant in
28 the same manner as provided in Section 5.08.080 for notice of hearing on revocation.
29 The decision and order of the ~~board of county commissioners~~ ~~county council~~ on such
30 appeal shall be final and conclusive.

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3 **Chapter 5.16 Dances and Dancehalls**

4 5.16.020 License--Required. It is unlawful for any person to hold any public dance
5 or conduct or maintain any dancehall without the limits of incorporated cities or towns in
6 Whatcom County without having first procured from the ~~board of county commissioners~~
7 ~~of this county~~ Whatcom County sheriff a license authorizing the holding of said public
8 dance or the conducting or maintaining of said dancehall.

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10 5.16.030 License--Application--Requirements. Any person desiring a license under
11 the provisions of this chapter shall make written application thereof at least five days
12 before the holding of any dance or the conducting or maintaining of any dancehall to the
13 ~~board of county commissioners of~~ Whatcom County sheriff, signed by the applicant,
14 stating therein and submitting such proof as may be required by the ~~board~~ sheriff, that
15 he ~~or she~~ has never been convicted of a crime involving moral turpitude, that he ~~or she~~
16 is a citizen of the United States of America, and has been a resident of Whatcom County
17 for a period of not less than three years immediately last past, and any Grange, patriotic,
18 fraternal or community dance application shall include the further statement whether or
19 not beer or liquor are sold or offered for sale on said premises.

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21 5.16.070 License--Revocation. Any license granted hereafter to conduct a
22 dancehall may be revoked by the ~~board of county commissioners~~ Whatcom County
23 council after a hearing held, upon not less than ten days written notice to the licensee,
24 and the action of the ~~board~~ council in revoking such license shall be final and conclusive.

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26 5.16.090 License--Transferability. No license granted under this chapter shall be
27 transferable except by formal order of the ~~board of county commissioners~~ Whatcom
28 County sheriff, nor shall any dancehall or public dance be conducted at any place other
29 than specified in the license therefor.

1 5.16.150 Hours of closing. No public dance shall be conducted, nor dancehall be
2 kept open, between the hours of one a.m. and six a.m. unless special permit be obtained
3 from the ~~board of county commissioners~~ Whatcom County sheriff.

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5 5.16.170 Regulations and amendments--Denial of license. The ~~board of county~~
6 ~~commissioners~~ Whatcom County sheriff shall have authority to make any and all
7 reasonable regulations not set forth in this chapter and any and all reasonable
8 amendments to this chapter, and may at its discretion refuse to grant licenses for
9 dancehalls to be located at such places, or to be conducted at such time as in their
10 judgment interfere with the comfort and happiness of the community in which such
11 proposed dancehall is to be located.

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16 **Chapter 5.44 Pool Halls**

17 Sections:

18 5.44.010 ~~Commissioners'~~ County sheriff's authority.

19 5.44.020 Closing time designated.

20 5.44.010 ~~Commissioners'~~ County sheriff's authority. Under the provisions of
21 Chapter 112, Session Laws of 1909, the ~~board of county commissioners have~~ Whatcom
22 County sheriff has the sole and exclusive authority and power to regulate, restrain,
23 license, or prohibit the maintenance or running of pool halls, billiard halls, and bowling
24 alleys outside of the incorporated limits of each incorporated city, town or village.

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26 5.44.020 Closing time designated. All pool halls, billiard halls and bowling alleys,
27 located outside of the incorporated limits of cities and towns in Whatcom County, shall
28 close every night at twelve midnight.

1 **Chapter 5.56 Teenage Dances**

2 5.56.130 Continuance after twelve midnight. No dancing at any teenage dance
3 shall be permitted after the hour of twelve midnight unless the permit issued for that
4 dance specifically authorizes the continuance for a later hour. Authorization to continue
5 dancing after the hour of twelve midnight may be approved within the discretion of the
6 ~~board of county commissioners~~ ~~Whatcom County sheriff~~.

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10 **Chapter 6.08 Restriction of Livestock**

11 6.08.010 Stock restricted area. Under authorization of RCW Chapter 16.24 the
12 ~~county commissioners of Whatcom County~~ ~~council~~ orders the whole territory of
13 Whatcom County, excepting therefrom all Indian reservation land, designated as stock
14 restricted area, and further order that it is unlawful to permit livestock of any kind to run
15 at large in or upon said territory.

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19 **Chapter 8.16 Flammable Liquids**

20 8.16.010 Purpose. The considered opinion of the ~~county commissioners~~ ~~county~~
21 ~~council~~ is that self-service stations constitute a serious fire hazard because of the lack of
22 supervision of sales and deliveries of gasoline and other flammable liquids by trained
23 personnel; therefore, as a safety measure, this chapter shall regulate sales and deliveries
24 of flammable liquids.

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28 **Chapter 10.36 Vehicular Ferry Passes**

29 10.36.050 Replacement--Appeal procedure. Any applicant for issuance of a
30 duplicate pass who is aggrieved by the findings and determination of the county engineer

1 may appeal to the ~~board of county commissioners~~ **Whatcom County council** within ten
2 days after mailing of the notice of denial by the county engineer. The ~~board of county~~
3 ~~commissioners~~ **county council** shall hear and determine the appeal en banc within thirty
4 days after filing of the notice of appeal with the clerk of the ~~board of county~~
5 ~~commissioners~~ **county council**. When time and place of hearing of the appeal has been
6 set by the ~~commissioners~~ **county council**, the clerk shall give the applicant not less than
7 seven days' notice in writing of the exact time and place his appeal will be heard.
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11 **Chapter 10.40 Traffic Code**

12 10.40.040 Preservation of prosecution begun under prior provisions. Any
13 resolution previously adopted by the board of county commissioners, or Whatcom County
14 council, which is in whole or in part inconsistent with any provision of the Whatcom
15 County Traffic Code is to that extent repealed; provided, any prosecution begun under
16 such inconsistent provision prior to December 31, 1980, shall be preserved.
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20 **Chapter 12.08 Construction Standards**

21 12.08.020 Amendment No. 1 adopted. Amendment No. 1 to the 1963 standard
22 specifications for road and bridge construction is adopted, as far as practicable, as the
23 standards for road and bridge construction in Whatcom County. The contents of
24 amendment No. 1 shall supersede any conflicting provisions of the 1963 standard
25 specifications adopted by the board of commissioners ~~of~~ **of** Whatcom County.
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29 **Chapter 12.12 Construction of Approaches**

30 12.12.050 Permit--Compliance required. The county ~~commissioners~~ **engineer** may

1 revoke, annul, change, amend, amplify, or terminate a permit or any of the conditions
2 enumerated in this chapter, if grantee fails to comply with any or all of its provisions,
3 requirements or regulations as set forth in this chapter, or, through wilful or
4 unreasonable neglect, fails to heed or comply with notices given, or, if the utility herein
5 granted is not installed or operated and maintained in conformity herewith or at all or
6 for any cause or reason whatsoever.

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8 12.12.060 Bond required for five or more adjacent approaches. In case a request is
9 made for a permit for five or more adjacent approaches, a bond in an amount sufficient
10 to insure the proper construction of said approaches and the restoring of the county road
11 and drainage to its original condition shall be filed with the county ~~commissioners~~
12 ~~engineer~~.

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14 12.12.090 Change of location. The county ~~commissioners~~ ~~engineer~~ reserve the
15 right to order the change of location or the removal of any structure or structures
16 authorized by a permit at any time, said change or removal to be made at the sole
17 expense of the party or parties to whom the permit is issued, or their successors and
18 assigns.

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22 **Chapter 12.32 Lateral Drainage**

23 12.32.010 Submittal of plans. No property owner shall use a road ditch in
24 Whatcom County as an outlet for a lateral drainage ditch without first submitting plans
25 in writing to the ~~board of county~~ ~~engineer~~ ~~commissioners~~, and without first receiving the
26 written approval of the ~~board of county commissioners and the county engineer~~.

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30 **Chapter 16.04 Comprehensive Plan**

1 16.04.010 Plan approved. The board of commissioners approved and certified
2 the Whatcom County comprehensive plan as prepared and approved by the Whatcom
3 County planning commission pursuant to RCW 36.70.320.

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