

Chapter 4.02 ENFORCEMENT PROCEDURES

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4.02.010 Purposes.

The purposes of this title are:

- (1) To establish an efficient system to enforce the city of Marysville Municipal Code (MMC), providing for both civil and criminal remedies for violations;
- (2) To provide opportunity for a prompt hearing and decision on alleged violations of the MMC;
- (3) To establish monetary penalties for violations of the MMC; and
- (4) To abate/bring into compliance violations of the MMC. (Ord. 2873 § 1, 2011; Ord. 2763 § 1, 2009; Ord. 2045 § 1, 1995).

4.02.020 Definitions.

For the purposes of this chapter, the following definitions shall apply unless the context or meaning clearly indicates otherwise:

- (1) "City" means the city of Marysville, Washington.
- (2) "Director" means the directors of any department of the city, or such other head of a department that is authorized to utilize the provisions of this title to enforce violations of the MMC, and shall include any duly authorized representative of such director. If more than one department is authorized to act under this title, the term "director" shall also be understood to mean all applicable directors.
- (3) "Hearing examiner" means the city of Marysville hearing examiner, codified by Chapter 22G.060 MMC, or the examiner's duly authorized representative.
- (4) "MMC" means the Marysville Municipal Code.
- (5) "Permit" means any form of certificate, approval, registration, license or other written permission given to any person to engage in any activity as required by law, ordinance or regulation. The term "permit" shall not include preliminary or final plat approval or any rezone.
- (6) "Person" as used in this title includes any natural person, organization, corporation or partnership and its agents, representatives or assigns.
- (7) "Public nuisance" means the following:
 - (a) A nuisance or public nuisance as defined in state statute or city ordinance, including but not limited to Chapter 7.48 RCW and Chapters 6.24, 6.25 and 7.04 MMC;
 - (b) A nuisance at common law, either public or private;

(c) A violation of the city's land use, zoning, and environmental regulations (MMC Title 22), construction code regulations (MMC Title 16), water, sewer, and stormwater regulations (MMC Title 14), business license regulations (MMC Title 5), noise regulations (Chapter 6.76 MMC), health and sanitation regulations (MMC Title 7), fire regulations (MMC Title 9), animal control regulations (MMC Title 10), abandoned, unauthorized, and junk vehicle regulations (Chapter 11.36 MMC), and any other violation of the Marysville Municipal Code that poses a threat to the public health, safety or welfare.

(8) "Screened from public view" means sight-obscuring fencing and/or landscaping is installed around the area or objects. (Ord. 2873 § 1, 2011; Ord. 2763 § 1, 2009; Ord. 2045 § 1, 1995).

4.02.030 Citizen complaints.

(1) Written Complaint/Notice to Owner. On forms provided by city departments, any aggrieved person may file a written complaint with the director alleging that a violation of the MMC has occurred or may occur. The citizen complaint process shall not apply to actions for which there are administrative and/or judicial appeals provided for in this title or other titles, chapters or sections of the MMC. Each complaint shall state fully the causes and bases for the complaint and shall be filed with the appropriate department. A copy of the complaint shall be promptly mailed to the property owner of the subject property via first class and certified (return receipt requested) mail.

(2) Hearing Before the Hearing Examiner. Within 60 days of completing and filing the complaint, the complainant may request, in writing, a hearing before the hearing examiner. As soon as the complaint is filed, the director shall cease all administrative action and schedule a hearing. The date of hearing shall be not more than 90 days from the receipt of the complaint. The person filing the complaint shall have the burden of demonstrating that a violation has occurred or may occur.

(3) Hearing Examiner's Decision. Within 10 city working days of the conclusion of the public hearing, the hearing examiner shall file a written decision with the department. The hearing examiner's decision shall be final with a right of appeal only to Snohomish County superior court as provided in subsection (4) of this section. The hearing examiner has the authority to award costs and expenses to the prevailing party and the city.

(4) Appeal to Snohomish County Superior Court. Within 10 city working days of the hearing examiner's written decision, a party may appeal the hearing examiner's decision to the Snohomish County superior court by filing a writ of review. In the event there is no appeal to superior court and the hearing examiner's decision becomes final, it shall be enforced pursuant to MMC 4.02.040(10). (Ord. 2873 § 1, 2011; Ord. 2763 § 1, 2009; Ord. 2045 § 1, 1995).

4.02.040 Penalties and enforcement.

(1) Director Authorized to Enforce Codes. The director is charged with enforcement of the provisions of this title and the MMC.

(2) Violations. It shall be unlawful for any person to construct, enlarge, alter, repair, move, demolish, use, occupy or maintain any use or cause the same to be done in violation of any of the provisions of this title or other titles, chapters or sections of the MMC. Any such violation as determined by the director is declared to be a public nuisance and shall be corrected by any reasonable and lawful means as provided in this section. In the event the penalties provided in this title conflict with any penalty provided in any other section, chapter or title of the Marysville Municipal Code, the penalty provisions of this title shall control.

(3) Director's Remedies. Upon finding a violation, the director may:

- (a) Institute appropriate action or proceedings to require compliance with this title or to enjoin, correct or abate any acts or practices which constitute or will constitute a violation;
- (b) Issue a temporary enforcement order, stop work order, emergency order, or permanent enforcement order, pursuant to subsections (7) and (8) of this section;
- (c) Abate the violation if corrective work is not commenced or completed within the time specified in a permanent enforcement order;
- (d) Suspend or revoke any approvals or permits issued pursuant to this title; MMC Title 5 (Business Regulations and Licenses), including without limitation MMC 5.02.140, 5.20.080 and 5.52.090; MMC Title 6 (Penal Code), including without limitation Chapter 6.24 MMC; MMC Title 7 (Health and Sanitation), including without limitation MMC 7.04.010 through 7.04.100; MMC Title 9 (Fire); MMC Title 11 (Traffic), including without limitation MMC 11.36.040; MMC Title 12 (Streets and Sidewalks), including without limitation MMC 12.08.040, Chapter 12.12 MMC, MMC 12.20.010, Chapter 12.24 MMC, MMC 12.36.020 through 12.36.030 and 12.40.020 through 12.40.030; MMC Title 14 (Water and Sewers), including without limitation Chapters 14.15, 14.16, 14.17 and 14.21 MMC; MMC Title 16 (Building); and MMC Title 22 (Unified Development Code);
- (e) Assess civil penalties after notice and order set forth in subsection (8)(b)(iv) of this section or recovered by legal action filing in Snohomish County superior court;
- (f) File a lien against the property for costs of abatement and/or civil fines;
- (g) Issue civil infractions:
- (i) Except as otherwise provided herein, any violation of this code to which this chapter applies is deemed and declared to be a civil infraction. Each day of violation shall constitute a separate civil infraction.
- (ii) Any person found to have committed a civil infraction shall be assessed a fine as set forth in the following schedule:

		First Violation		Repeat Violation	
Code Provisions		Noncommercial	Commercial	Noncommercial	Commercial
Title	Chapter				
<u>4</u> Enforcement Code	<u>4.02</u> Enforcement Procedures	\$300	\$500	\$600	\$1,000
<u>5</u> Business Regulations and Licenses	<u>5.02</u> Business Licenses	\$150	\$250	\$300	\$500
<u>6</u> Penal Code	<u>6.24</u> Public Nuisances	\$150	\$250	Second violation \$300 *Third violation, see subsection (3)(g)(iii) of this section	Second violation \$500 *Third violation, see subsection (3)(g)(iii) of this section
	<u>6.76</u> Noise Regulation	\$150	\$250	\$300	\$500

<u>7</u> Health and Sanitation	<u>7.04</u> Unsanitary Conditions – Nuisances	\$150	\$250	\$300	\$500
	<u>7.08</u> Garbage Collection	\$150	\$250	\$300	\$500
<u>9</u> Fire	<u>9.04</u> Fire Code	\$150	\$250	\$300	\$500
<u>12</u> Streets and Sidewalks	<u>12.24</u> Sidewalks – Dangerous Conditions	\$150	\$250	\$300	\$500
	<u>12.36</u> Vegetation	\$150	\$250	\$300	\$500
	<u>12.40</u> Clean Condition of Public Right-of-Way	\$150	\$250	\$300	\$500
<u>14</u> Water and Sewers	<u>14.01</u> General Provisions	\$150	\$250	\$300	\$500
	<u>14.15</u> Controlling Stormwater Runoff from New Development, Redevelopment, and Construction Sites	\$150	\$250	\$300	\$500
	<u>14.16</u> Operation and Maintenance of Public Storm Drainage Systems	\$150	\$250	\$300	\$500
	<u>14.17</u> Operation and Maintenance of Private Storm Drainage Systems	\$150	\$250	\$300	\$500
		Plus any costs incurred for the maintenance of failed private stormwater systems.			
	<u>14.21</u> Illicit Discharge Detection and Elimination (IDDE)	\$150	\$250	\$300	\$500
		Plus city's costs for abatement, sampling and/or monitoring.			
<u>16</u> Building	<u>16.04</u> Building Code	\$150	\$250	\$300	\$500
<u>22</u> Unified Development Code	Title <u>22C</u> Land Use Standards	\$150	\$250	\$300	\$500
	<u>22D.050</u> Clearing, Grading, Filling and Erosion Control	\$250	\$350	\$500	\$700

22E.010 Critical Areas Management	\$250	\$350	\$500	\$700
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(iii) Criminal violations for third and subsequent violations of Chapter 6.24 MMC, Public Nuisances, will be pursuant to MMC 6.24.040 and through Marysville municipal court as set forth in the Marysville Municipal Code, state law, the Washington State Court Rules Limited Jurisdiction Court Rules (CrRLJ) and local court rules for Marysville municipal court, and/or subsection (4) of this section; and/or

(iv) Civil infractions will be administered and processed through Marysville municipal court as set forth in the Marysville Municipal Code, state law, the Washington State Court Rules Infraction Rules for Courts of Limited Jurisdiction (IRLJ) and local court rules for Marysville municipal court; and/or

(h) Mitigate civil fines.

(i) The director may reduce or waive civil fines assessed under this chapter if the violation is corrected within the specified deadline and the correction is verified by the city. A reduction shall be in writing and state the date on which the violation was corrected.

(ii) For reduction or waiver of fines, the person(s) named shall have the burden of proof that the violation has been corrected.

(iii) Any reduction or waiver shall be based on an evaluation of individual circumstances, including but not limited to the severity of the violation, repetition of violations, protection of the public interest, and responsiveness of the person(s) responsible to correct, cure, abate, and/or stop the violation.

(4) Violators Punishable by Criminal Fine and Imprisonment. As an alternative to any other remedy provided in this title or by law or other ordinance, any person willfully or knowingly violating any provision of this title or other titles, chapters or sections of the MMC, or amendments thereto, or any person aiding or abetting such violation is guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$1,000 and/or imprisonment for a term not to exceed 90 days. Each day such violation continues may be considered a separate offense.

(5) Inspections.

(a) Whenever the director has reasonable cause to believe that a violation has been or is being committed, the director or the director's duly authorized inspector may enter any building, structure or property at any reasonable time to inspect the use and perform any duty conferred on the director by this title.

(b) If the building, structure or property is occupied, the director shall first present identification credentials, state the reason for the inspection and demand entry. If consent to enter is not given and if:

(i) The director has reason to believe that the conditions create an imminent and irreparable hazard, then the director shall enter; or

(ii) The director has reason to believe that the conditions do not create an imminent and irreparable hazard, the director shall enter after first obtaining a civil search warrant.

(c) If the building, structure or property is not occupied, the director shall make a reasonable effort to locate the owner or other person(s) having control and request permission to enter. If the director is unable to locate the owner or person(s) having control, and if:

(i) The director has reason to believe that conditions therein create an immediate and irreparable hazard, the director shall enter; or

(ii) The director has reason to believe that the conditions do not create an imminent and irreparable hazard, the director shall enter after first obtaining a search warrant.

(6) Violators Punishable by Civil Penalties After Administrative Notice and Order.

(a) Director to Determine Violation and May Provide Enforcement Order. Within 30 days of notice of a potential violation, the director is authorized to and shall determine whether a violation has occurred and, if the director determines that a violation has occurred, shall issue a temporary or permanent enforcement order. The director shall notify the complainant, the owner or operator of the source of the violation, and the person in possession of the property or the person causing the violation of the director's determination in writing within three city working days of the determination. Service of the notice by first class and certified (return receipt requested) mail to the last known address of the complainant and violators shall be deemed effective notice.

(b) Director May Commence Administrative Notice. Additionally, whenever the director has reason to believe that a use or condition exists in violation of this title and that violation will be most promptly and equitably terminated by an administrative proceeding, the director may commence an administrative notice and order proceeding to cause assessment of a civil penalty, abatement or suspension of all activities, work or revocation of any approvals or permits issued pursuant to this title; MMC Title 5 (Business Regulations and Licenses), including without limitation MMC 5.02.140, 5.20.080 and 5.52.090; MMC Title 6 (Penal Code), including without limitation Chapter 6.24 MMC; MMC Title 7 (Health and Sanitation), including without limitation MMC 7.04.010 through 7.04.100; MMC Title 9 (Fire); MMC Title 11 (Traffic), including without limitation MMC 11.36.040; MMC Title 12 (Streets and Sidewalks), including without limitation MMC 12.08.040, Chapter 12.12 MMC, MMC 12.20.010, Chapter 12.24 MMC, MMC 12.36.020 through 12.36.030 and 12.40.020 through 12.40.030; MMC Title 14 (Water and Sewers), including without limitation Chapters 14.15, 14.16, 14.17 and 14.21 MMC; MMC Title 16 (Building); and MMC Title 22 (Unified Development Code).

(7) Temporary Enforcement Order, Stop Work Order, and Emergency Order.

(a) The director may cause a temporary enforcement order, stop work order, or emergency order ("order") to be posted on the subject property or served on the property owner and/or persons engaged in any work or activity on the property, as provided in this section.

(i) A temporary order may be issued pursuant to and in accordance with subsection (6)(a) of this section.

(ii) A stop work order may be issued to immediately cease specified work or activity when the director finds that such work or activity is being conducted in violation of the MMC or in a dangerous or unsafe manner.

(iii) An emergency order may be issued to immediately cease and remedy specified work or activity when the director finds that such work or activity is being conducted in a hazardous or unsafe manner that threatens the health or safety of the occupants of any premises or members of the public.

(iv) Violation of a stop work order or emergency order shall constitute a misdemeanor, punishable as provided in subsection (4) of this section.

(b) The order shall require immediate cessation of such work or activities and may temporarily suspend any approval or permit issued under this title; MMC Title 5 (Business Regulations and Licenses), including without limitation MMC 5.02.140, 5.20.080 and 5.52.090; MMC Title 6 (Penal Code), including without limitation Chapter 6.24 MMC; MMC Title 7 (Health and Sanitation), including without limitation MMC 7.04.010 through 7.04.100; MMC Title 9 (Fire); MMC Title 11 (Traffic), including without limitation MMC 11.36.040; MMC Title 12 (Streets and Sidewalks), including without limitation MMC 12.08.040, Chapter 12.12 MMC, MMC 12.20.010, Chapter 12.24 MMC, MMC 12.36.020 through 12.36.030 and 12.40.020 through 12.40.030; MMC Title 14 (Water and Sewers), including without limitation Chapters 14.15, 14.16, 14.17 and 14.21 MMC; MMC Title 16 (Building); and MMC Title 22 (Unified Development Code).

(c) The order may be issued without written or oral notice and shall expire by its own terms in 10 days unless the director extends or issues and transmits a permanent enforcement order pursuant to subsection (8) of this section.

(d) The order shall contain:

- (i) The street address, when available, and a legal description of the real property;
- (ii) A statement that the director has found the person to be in violation of this title and a brief and concise description of the condition found to be in violation;
- (iii) A statement of the corrective action to be taken;
- (iv) A statement that the order shall expire by its own terms in 10 days unless extended in writing or a permanent order is issued;
- (v) A statement that the violator may be subject to a civil penalty in the amount set forth in subsection (3)(g) of this section for each day that the violation continues and, if applicable, the conditions on which assessment of such civil penalty is contingent.

(e) Withdrawal or Issuance of Additional Temporary Order. The director may withdraw a temporary order if compliance is achieved within 10 calendar days of posting or service thereof. If, after withdrawal, the violation is continued or repeated, the director may cause a second temporary order to be posted on the subject property or served on persons engaged in any work or activity in violation of this title. Any subsequent order involving the same violation shall be permanent.

(8) Permanent Enforcement Order.

(a) A permanent order shall be issued by the director and become final within 10 calendar days, unless written appeal is received asking for a hearing before the hearing examiner.

(b) The permanent enforcement order shall contain:

- (i) The street address and, when available, a legal description of real property;
- (ii) A statement that the director has found the person to be in violation of this title and a brief and concise description of the conditions found to be in violation;
- (iii) A statement of the corrective action required to be taken. If the director has determined that corrective work is required, the order shall mandate that all required permits be secured

and the work be physically commenced and completed within such time as the director determines is reasonable under the circumstances, but in no event shall such time exceed 90 days;

(iv) A statement that the violator may be subject to a civil penalty in the amount set forth in subsection (3)(g) of this section for each day that the violation continues and, if applicable, the conditions on which assessment of such civil penalty is contingent;

(v) Statements advising:

(A) If any required work is not commenced or completed within the time specified, the director shall proceed to abate the violation and cause the work to be done and charge the costs thereof as a lien against the property and any other property owned by the person in violation and as a personal obligation of any person in violation; and

(B) If any assessed civil penalty is not paid, the director will charge the amount of the penalty as a lien against the property and as a joint and separate personal obligation of any person in violation; and

(C) The violator of the violator's right to appeal and the appeal process.

(c) Any order issued by the director pursuant to this title shall be final unless a timely appeal is filed pursuant to subsection (9) of this section.

(d) Service. Service of the permanent enforcement order shall be made upon all persons identified in the order either personally or by mailing a copy of such order by certified mail, postage prepaid, return receipt requested, to the last known address. If the address of any such person cannot reasonably be ascertained, a copy of the order shall be mailed to such person at the address of the location of the violation. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this title. Service by certified mail in the manner provided in this section shall be effective on the date of postmark. The order may be, but is not required to be, posted on the subject property.

(e) Supplemental Order. The director may at any time add to, rescind in part, or otherwise modify a permanent enforcement order.

(9) Appeal.

(a) A written appeal may be filed within 10 calendar days following issuance of a temporary or permanent order, stop work order, emergency order, or permanent enforcement order.

(b) An appeal of a stop work order or emergency order shall not stay the requirement that the specified work or activity immediately cease and/or be remedied.

(c) The director shall prepare and transmit to the hearing examiner any appeal of a temporary or permanent enforcement order, and a hearing shall be scheduled within 60 days of the appeal date. Cost of the appeal shall be part of the decision. The hearing examiner's decision may be reviewed by an action for writ of review in the superior court of Snohomish County filed within 10 calendar days of the decision. If no appeal is filed in the required length of time, the hearing examiner's decision shall be final.

(10) Violation of Permanent Order. If, after any permanent order duly issued by the director or hearing examiner has become final, the person to whom such order is directed fails, neglects, or refuses to obey such order, including refusal to pay a civil penalty assessed under such order, the director may:

- (a) Cause such person to be prosecuted under the provisions of this title;
- (b) Institute any appropriate action to collect a civil penalty assessed under this title;
- (c) Abate the violation using the procedures of this title; and/or
- (d) Pursue any other appropriate remedy at law or equity.

(11) Revocation or Suspension of Approvals or Permits. The director may permanently revoke or suspend any approval or permit issued under this title; MMC Title 5 (Business Regulations and Licenses), including without limitation MMC 5.02.140, 5.20.080 and 5.52.090; MMC Title 6 (Penal Code), including without limitation Chapter 6.24 MMC; MMC Title 7 (Health and Sanitation), including without limitation MMC 7.04.010 through 7.04.100; MMC Title 9 (Fire); MMC Title 11 (Traffic), including without limitation MMC 11.36.040; MMC Title 12 (Streets and Sidewalks), including without limitation MMC 12.08.040, Chapter 12.12 MMC, MMC 12.20.010, Chapter 12.24 MMC, MMC 12.36.020 through 12.36.030 and 12.40.020 through 12.40.030; MMC Title 14 (Water and Sewers), including without limitation Chapters 14.15, 14.16, 14.17 and 14.21 MMC; MMC Title 16 (Building); and MMC Title 22 (Unified Development Code) for any of the following reasons:

- (a) Failure of the holder to comply with the requirements of such title; or
- (b) Failure of the holder to comply with any order issued pursuant to this title; or
- (c) Discovery by the director that an approval or a permit was issued in error or on the basis of incorrect information supplied to the city.

Such approval of permit revocation or suspension shall be carried out through the notice and order provisions of this section. The revocation or suspension shall be final within five working days of the conclusion of a hearing unless the hearing examiner renders a written decision modifying or denying the revocation or suspension.

(12) Lien.

- (a) City Has Lien. The city of Marysville shall have a lien for any civil penalty imposed or for the cost of any work or abatement done pursuant to this title, or both, against the real property on which the civil penalty was imposed or any of the work of abatement was performed and against any other real property owned by any person in violation. The civil penalty shall be a joint and several obligation of all people found to be in violation. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be superior to all other liens, except for state and county taxes, with which it shall be on a parity.
- (b) Director's Authority to Claim Lien. The director shall cause a claim for lien to be filed for record with the auditor within 90 days from the date the civil penalty is due or within 90 days from the date of completion of the work or abatement performed by the city of Marysville pursuant to this title.
- (c) Notice of Lien. The notice and order of a director pursuant to this title shall give notice to the owner that a lien for the civil penalty or the cost of abatement, or both, may be claimed by the city. Service of the notice and order shall be made upon all persons identified in the notice and order either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested.
- (d) Contents of Lien. The claim of lien shall contain the following:

- (i) The authority for imposing a civil penalty or proceeding to abate the violation, or both;
 - (ii) A brief description of the civil penalty imposed or the abatement work done, or both, including the violations charged and the duration thereof, the time the work was commenced and completed and the name of the persons or organizations performing the work;
 - (iii) A legal description of the property to be charged with the lien;
 - (iv) The name of the known or reputed owner; and
 - (v) The amount, including lawful and reasonable costs, for which the lien is claimed.
- (e) Verification of Lien. The lien shall be verified by the director to the effect that the director believes that the claim is just.
- (f) Filing of Lien. The lien shall be recorded with the Snohomish County auditor.
- (g) Duration of Lien. No lien created under this title shall bind the property for a period longer than three years after the claim has been filed unless an action is commenced in the proper court within that time to enforce the lien.
- (h) Foreclosure of Lien. The lien may be foreclosed by a civil action in Snohomish County superior court.
- (i) Removal of Lien. All liens shall be removed by the city of Marysville when all conditions placed upon the violator(s) by a notice and order or by the hearing examiner have been satisfied. (Ord. 2873 § 1, 2011; Ord. 2816 § 2, 2010; Ord. 2763 § 1, 2009; Ord. 2045 § 1, 1995).

4.02.050 Code enforcement procedures manual.

The code enforcement officer shall have the authority to adopt and adhere to a code enforcement procedures manual which shall be available for public inspection and copying during regular business hours. (Ord. 2873 § 1, 2011; Ord. 2763 § 1, 2009; Ord. 2045 § 1, 1995).

The Marysville Municipal Code is current through Ordinance 2926, passed May 13, 2013.

Disclaimer: The City Clerk's Office has the official version of the Marysville Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.marysvillewa.gov/>
(<http://www.marysvillewa.gov/>)
City Telephone: (360) 363-8000
Code Publishing Company
(<http://www.codepublishing.com/>)
eLibrary
(<http://www.codepublishing.com/elibrary.html>)