

Marysville City Council Work Session

October 18, 2010

7:00 p.m.

City Hall

Call to Order

Pledge of Allegiance

Roll Call

Committee Reports

Presentations

Discussion Items

Approval of Minutes (Written Comment Only Accepted from Audience.)

1. Approval of September 27, 2010 City Council Meeting Minutes.
2. Approval of October 7, 2010 City Council Special Meeting Minutes.
3. Approval of October 4, 2010 City Council Work Session Minutes.

Consent

4. Approval of October 6, 2010 Claims in the Amount of \$601,774.83; Paid by Check Number's 65877 through 65981 with No Check's Voided.
5. Approval of October 13, 2010 Claims.
6. Approval of October 20, 2010 Payroll.

Review Bids

7. Award Boys and Girls Club Lighting Retrofit Project.

Public Hearings

New Business

8. Third Renewal/Amendment of Intergovernmental Facilities Use Agreement between the City of Marysville and the U.S. Bankruptcy Court.
9. Renewal of Marysville School District No. 25 and the City of Marysville for School Resource Officer Agreement and Payment Schedule Addendum.
10. Amendment No. 1 to Janitorial Services Contract between the City of Marysville and Advantage Building Services in the Amount of \$57,936.79.
11. Renewal of Animal Shelter Interlocal Agreement with the City of Everett.
12. An **Ordinance** of the City of Marysville Amending Section 10.04.150 of the Marysville Municipal Code, Relating to Fees for Voluntarily Surrendered Animals and Effective Date.
13. An **Ordinance** of the City of Marysville, Washington Related to Mobile/Manufactured Housing, Amending Section 19.04.020 Zones and Map Designations Established; Amending Section 19.04.080 Residential Zone; Amending Section 19.08.030 Residential Land Uses and Amending Footnotes 1; 24; 25 and 26; Amending Section 19.08.040 Recreation/Cultural Land Uses and Amending Footnote 1a; Amending Section 19.08.050 General Services Land Uses; Amending 19.08.060 Government/Business Service Land Uses; Amending 19.08.100 Regional Land Uses; Amending 19.38.030

Marysville City Council Work Session

October 18, 2010

7:00 p.m.

City Hall

New Business

Mobile/Manufactured Home Park Zone; and Amending 19.38.150 Standards for Existing Parks.

14. An **Ordinance** of the City of Marysville Amending Portions of Marysville Municipal Code Chapter 5.92 Relating to Body Art, Body Piercing and Tattooing or Tattoo Parlors and Providing for Severability.
15. An **Ordinance** of the City of Marysville Amending Marysville Municipal Code Chapter 14.32 Relating to Utility Service Area.

Legal

Mayor's Business

Staff Business

Call on Councilmembers

Executive Session

A. Litigation

B. Personnel

C. Real Estate

Adjourn

Special Accommodations: The City of Marysville strives to provide accessible meetings for people with disabilities. Please contact Tracy Jeffries, Assistant Administrative Services Director, at (360) 363-8000 or 1-800-833-6384 (Voice Relay), 1-800-833-6388 (TDD Relay) two days prior to the meeting date if any special accommodations are needed for this meeting.

Work Sessions are for City Council study and orientation - Public Input will be received at the October 25, 2010 City Council meeting.

Call to Order/Pledge of Allegiance/Roll Call	7:00 p.m.
Presentations	
Employee Service Awards: Jon Elton, 5-Year Service Award; Kevin Ward, 5-Year Service Award; Chris Holland, 10-Year Service Award; Erick Chrisman, 20-Year Service Award	Presented
Volunteers of the Month: Church of Jesus Christ of Latter Day Saints (Marysville) - Ken and Carol Gubler; Marysville Noon Rotary Club - Gayl Spilman and Lori Butner; Marysville Free Methodist Church - Pastor Victor Rodriguez	Presented
Council Vacancy Selection for Position Number 4	Held
Appoint Michael Stevens to Council Position Number 4	Approved
Approval of Minutes	
Approval of September 7, 2010 City Council Work Session Minutes	Approved
Consent Agenda	
Approval of September 15, 2010 Claims in the Amount of \$156,240.79; Paid by Check Number's 65439 through 65507 with Check Number's 52308, 65299, 65392 and 65432 Voided.	Approved
Approval of September 20, 2010 Payroll in the Amount of \$958,772.17; Paid by Check Number's 23226 through 23277. Check Number's 23165 and 21426 were voided and Reissued with Check Number's 23224 and 23225.	Approved
Acceptance of the State Avenue Phase III Corridor Improvement Project, Starting the 45-Day Lien Filing Period for Project Closeout.	Approved
Authorize the Mayor to Sign the Renewal of the Annual Support Agreement and License Agreement for Munis Software with Tyler Technologies, Inc. in the Amount of \$49,040.88.	Approved
Authorize the Mayor to Sign the Nonexclusive Communication Site Sublease between the City of Marysville and Island County Emergency Services Communications Center (I-COM).	Approved
Review Bids	Approved
Award the Bid for the 2010 Water Valve Renewal and Replacement Project to D & G Backhoe in the Amount of \$106,156.50 Including Washington State Sales Tax and Approve a Management Reserve of \$10,000 for a Total Allocation of \$116,156.50.	Approved
Award the 2010 Sewer Renewal and Replacement Project to Road Construction Northwest in the Amount of \$144,002.24 Including Washington State Sales Tax and Approve a Management Reserve of \$20,000 for a Total Allocation of \$164,002.24.	Approved
New Business	
An Ordinance of the City of Marysville, Washington, Authorizing the Condemnation, Appropriation, Taking and Damaging of Land and Other Property for Purposes of Construction Sidewalks along 67th Avenue NE.	Approved Ord. No. 2828
An Ordinance of the City of Marysville, Washington, Relating to Parks and Recreation and the City's Penal Code; Adopting and Adding a New	Approved Ord. No. 2829

Chapter 6.82 (Park Code) to Title 6 of the Marysville Municipal Code.	
A Resolution for the Adoption of the 2010 Snohomish County Natural Hazards Mitigation Plan Update.	Approved Res. No. 2294
A Resolution of the City of Marysville for the Acceptance of a \$1,000 Gift Subject to Conditions.	Approved Res. No. 2295
Approve a Professional Services Agreement between City of Marysville and Strategies 360 Inc. for Consultant Services.	Approved
Approve an Interlocal Agreement between the City of Marysville and Cities of Arlington, Lake Stevens, Snohomish for SR9 Consultant Services.	Approved
Legal	
Mayor's Business	
Staff Business	
Call on Councilmembers	
Recess	10:18 p.m.
Litigation – one item	10:25 p.m.
Personnel – one item	
Real Estate – three items	
Adjournment	10:00 p.m.

COUNCIL



MINUTES

Council Meeting
September 27, 2010

Call to Order / Invocation / Pledge of Allegiance

Mayor Nehring called the meeting to order at 7:00 p.m. at Marysville City Hall. The invocation was given by Dennis Niva, Ninety-Second St. Church of Christ. Mayor Nehring led those present in the Pledge of Allegiance.

Roll Call

Chief Administrative Officer Gloria Hirashima gave the roll call. The following staff and councilmembers were in attendance.

Mayor: Jon Nehring

Council: Councilmember Jeff Seibert, Councilmember John Soriano, and Councilmember Jeff Vaughan, Councilmember Carmen Rasmussen Councilmember Lee Phillips and Councilmember Donna Wright

Absent: None.

Also Present: Chief Administrative Officer Gloria Hirashima, Finance Director Sandy Langdon, City Attorney Grant Weed, Police Chief Rick Smith, Parks and Recreation Director Jim Ballew, Public Information Officer Doug Buell, Assistant Administrative Services Director Tracy Jeffries and Recording Secretary Laurie Hugdahl.

Committee Reports

Councilmember Soriano reported that the **LEOFF 1 Board** met on September 22 and reviewed and approved three claims.

Presentations

A. Employee Service Awards.

The following employees were recognized for their service to the City of Marysville:

- Jon Elton, Police Officer, Police (September) – 5-Year Service Award
- Kevin Ward, Maintenance Worker I, Surface Water (September) – 5-Year Service Award
- Chris Holland, Senior Planner, Comm. Dev. (August) – 10-Year Service Award (not present at meeting)
- Erick Chrisman, Lead Worker II, Parks (August) – 20-Year Service Award (not present at meeting)

B. Volunteers of the Month.

Mayor Nehring discussed the importance of volunteers in the community and his plan to regularly recognize those who give their time selflessly to make the community a better place. Representatives of the following groups were recognized for their recent work on the service project at Jennings Nature Park:

- Church of Jesus Christ of Latter Day Saints (Marysville) - Ken and Carol Gubler
- Marysville Noon Rotary Club - Gayl Spilman and Lori Butner
- Marysville Free Methodist Church - Pastor Victor Rodriguez

Audience Participation - None

Council Vacancy Selection for Position Number 4

City Attorney Grant Weed reviewed the rules and procedure for the council vacancy selection process. He explained that the new council member would serve until November 2011 at which time the council position would be open for election. Each of the following candidates gave a three-minute introduction and then responded to six questions (one posed by each councilmember).

- Matthew Chapman
- Steven Hellyer
- Quinn King
- Steve Muller
- John Myers
- Nathan Shelby
- Kay Smith
- Michael Stevens

Council recessed from 8:45 to 8:49 p.m.

- Marveta Toler
- Robert Toyer
- Robert Wicks

1st Round of Balloting:

Mayor Nehring opened the floor for nominations. Councilmember Soriano nominated Steve Muller. Councilmember Rasmussen nominated Michael Stevens. Councilmember Wright nominated John Myers. Councilmember Seibert nominated Kay Smith. Councilmember Vaughan nominated Robert Toyer.

Results:

Vaughan – Robert Toyer
Phillips – Michael Stevens
Soriano – Steve Muller
Wright – John Myers
Seibert – Kay Smith
Rasmussen – Michael Stevens

2nd Round of Balloting:

Councilmember Rasmussen nominated Michael Stevens. Councilmember Soriano nominated Steve Muller. Councilmember Seibert nominated Kay Smith

Results:

Seibert – Michael Stevens
Phillips – Michael Stevens
Rasmussen – Michael Stevens
Soriano – Steve Muller
Vaughan – Michael Stevens
Wright – Michael Stevens

Motion made by Councilmember Rasmussen, seconded by Councilmember Phillips, to nominate the appointment of Michael Stevens to the City of Marysville Council Position No. 4. **Motion** passed unanimously (6-0).

Councilmember Seibert commented on the high quality of all the candidates. Councilmember Phillips concurred. He commended all of them for their willingness to go through this difficult process. Councilmember Rasmussen echoed that it was an outstanding group of candidates. She reminded them of other commission and board openings and encouraged them to continue to serve. Councilmember Soriano commented on how capable and diverse this group was. Councilmember Vaughan agreed that this was a very difficult decision. He encouraged all of them to not give up but to persevere if they are interested in serving on the Council.

Mayor Nehring swore in Michael Stevens to the City of Marysville Council Position No. 4. Councilmember Stevens took his seat with the rest of the Council to finish the meeting. Councilmember Stevens commented that he felt very privileged to be part of this group of candidates. He is looking forward to working with the rest of the Council.

Approval of Minutes

1. Approval of September 7, 2010 City Council Work Session Minutes.

Motion made by Councilmember Seibert, seconded by Councilmember Soriano, to approve the September 7, 2010 City Council Work Session Meeting minutes as presented. **Motion** passed (4-0) with Councilmembers Carmen Rasmussen, Donna Wright, and Michael Stevens abstaining as they were not present at this meeting.

Consent

2. Approval of September 15, 2010 Claims in the Amount of \$156,240.79; Paid by Check Number's 65439 through 65507 with Check Number's 52308, 65299, 65392 and 65432 Voided.

3. Approval of September 20, 2010 Payroll in the Amount of \$958,772.17; Paid by Check Number's 23226 through 23277. Check Number's 23165 and 21426 were voided and Reissued with Check Number's 23224 and 23225.

9. Acceptance of the State Avenue Phase III Corridor Improvement Project, Starting the 45-Day Lien Filing Period for Project Closeout.

10. Authorize the Mayor to Sign the Renewal of the Annual Support Agreement and License Agreement for Munis Software with Tyler Technologies, Inc. in the Amount of \$49,040.88.

11. Authorize the Mayor to Sign the Nonexclusive Communication Site Sublease between the City of Marysville and Island County Emergency Services Communications Center (I-COM).

Motion made by Councilmember Soriano, seconded by Councilmember Wright, to approve Consent Agenda items 2, 3, 9, 10 and 11. **Motion** passed unanimously (7-0).

Review Bids

4. Award the Bid for the 2010 Water Valve Renewal and Replacement Project to D & G Backhoe in the Amount of \$106,156.50 Including Washington State Sales Tax and Approve a Management Reserve of \$10,000 for a Total Allocation of \$116,156.50.

Motion made by Councilmember Wright, seconded by Councilmember Seibert, to authorize the Mayor to Award the Bid for the 2010 Water Valve Renewal and Replacement Project to D & G Backhoe in the Amount of \$106,156.50 Including Washington State Sales Tax and Approve a Management Reserve of \$10,000 for a Total Allocation of \$116,156.50. **Motion** passed unanimously (7-0).

5. Award the 2010 Sewer Renewal and Replacement Project to Road Construction Northwest in the Amount of \$144,002.24 Including Washington State Sales Tax and Approve a Management Reserve of \$20,000 for a Total Allocation of \$164,002.24.

Motion made by Councilmember Rasmussen, seconded by Councilmember Soriano, to authorize the Mayor to Award the 2010 Sewer Renewal and Replacement Project to Road Construction Northwest in the Amount of \$144,002.24 Including Washington State Sales Tax and Approve a Management Reserve of \$20,000 for a Total Allocation of \$164,002.24. **Motion** passed unanimously (7-0).

New Business

12. An **Ordinance** of the City of Marysville, Washington, Authorizing the Condemnation, Appropriation, Taking and Damaging of Land and Other Property for Purposes of Construction Sidewalks along 67th Avenue NE.

Motion made by Councilmember Wright, seconded by Councilmember Vaughan, to approve Ordinance #2828. **Motion** passed unanimously (7-0).

13. An **Ordinance** of the City of Marysville, Washington, Relating to Parks and Recreation and the City's Penal Code; Adopting and Adding a New Chapter 6.82 (Park Code) to Title 6 of the Marysville Municipal Code.

City Attorney Grant Weed responded to Councilmember Seibert's question at the work session about how firearms would be impacted by this code.

Councilmember Vaughan asked about the leash length clause. Director Ballew thought this was consistent with the other city codes. Councilmember Vaughan then asked if there was a discrepancy in the code regarding restrictions on where bicycles can be ridden. Director Ballew explained that there was not a discrepancy because they consider gravel to be a paved surface.

Motion made by Councilmember Rasmussen, seconded by Councilmember Seibert, to approve Ordinance #2829. **Motion** passed unanimously (7-0).

14. A **Resolution** for the Adoption of the 2010 Snohomish County Natural Hazards Mitigation Plan Update.

Motion made by Councilmember Seibert, seconded by Councilmember Vaughan, to approve Resolution #2294. **Motion** passed unanimously (7-0).

15. A **Resolution** of the City of Marysville for the Acceptance of a \$1,000 Gift Subject to Conditions.

Director Ballew noted that a card of thanks had been passed around for all councilmembers to sign.

Motion made by Councilmember Rasmussen, seconded by Councilmember Wright, to approve Resolution #2295. **Motion** passed unanimously (7-0).

16. Professional Services Agreement between City of Marysville and Strategies 360 Inc. for Consultant Services.

CAO Hirashima reviewed the background on this Agreement and the Scope of Services.

Motion made by Councilmember Seibert, seconded by Councilmember Vaughan, to authorize the Mayor to approve the Professional Services Agreement between City of Marysville and Strategies 360 Inc. for Consultant Services. **Motion** passed unanimously (7-0).

17. Interlocal Agreement between the City of Marysville and Cities of Arlington, Lake Stevens, Snohomish for SR9 Consultant Services.

CAO Hirashima commented that she has received signed copies back from all three cities.

Motion made by Councilmember Soriano, seconded by Councilmember Seibert, to authorize the Mayor to approve the Interlocal Agreement between the City of Marysville and Cities of Arlington, Lake Stevens, Snohomish for SR9 Consultant Services. **Motion** passed unanimously (7-0).

Mayor's Business

Mayor Nehring:

- He congratulated and welcomed Councilmember Stevens to the Council.
- He congratulated the Police Department for the great work they do. He was very impressed with the awards banquet and those who received awards.
- There is a meeting this Friday to meet with the Governor's office to discuss zoning issues in the north end. He asked for up to three councilmembers who might be interested in attending. Councilmembers Seibert, Stevens, and Phillips or Vaughan volunteered to attend.

- He stated that he has committed to getting back to Mr. Tosti about options for different zoning. There was consensus from the Council that if he desires a change in zoning he should take it to the Planning Commission.
- He announced that he would be holding a coffee klatsch at the YMCA at 9:30 a.m. on Wednesday.

Staff Business

Chief Smith:

- He congratulated Councilmember Stevens. He also was very impressed with the quality and depth of all the candidates.
- He discussed the Police Awards Ceremony where many awards were given.
- A new member of the police force, Chris Jones, will be sworn in soon. There are a couple conditional offers out there now as well which would fill three vacancies.
- There will be a Public Safety meeting on Wednesday at 4:30.
- The police department is waiting on a COPS grant and should hear back on Friday.

Larry Larson gave an update on the repairs to the Public Works building.

Jim Ballew welcomed Councilmember Stevens.

Sandy Langdon:

- Welcomed Councilmember Stevens.
- Budget Workshops were scheduled for the evenings of October 12 and 13 at approximately 5:30 p.m.
- There will be a special meeting on Wednesday October 6, at 5:30 regarding selling bonds for the purchase of the court building.
- There will be a Finance Committee meeting this Wednesday at 4:30 p.m. Lee Phillips, John Soriano, Jeff Seibert and Jeff Vaughan indicated they could attend.

Grant Weed stated the need for an Executive Session to discuss five items: three items concerning real estate, one potential litigation, and one collective bargaining item with no action being requested and expected to last 20 minutes.

Gloria Hirashima:

- She congratulated Councilmember Stevens and all the Council for conducting a fair and equitable meeting.
- She solicited Council availability to attend a Joint County Council / City Council Meeting. There was discussion regarding availability.
- The City will be postponing the economic summit with the Tulalip Tribes until the spring.
- Cedar Grove has submitted to the City of Everett. The City has received a copy of the application and will be submitting comments.

- The City will be applying for a Brownfield Grant for the marina.
- The City is preparing a Comp Plan Amendment to the Planning Commission for a manufacturing center designation for the Smokey Point area to promote that area for job creation.
- There will be an open house for the Qwuloolt project on September 30 from 6:30 to 8 p.m. at Sunnyside Elementary School gym. The Trustees have put in their application to do the dike breach.
- The City is proposing some court fee increases for 2011. This would affect agreements with Lake Stevens and Arlington, but the City will still remain competitive with Snohomish County's court fees. They have also had meetings with the City of Snohomish to see if there is potential to bring them into our court and jail system.

Call on Councilmembers

Councilmember Rasmussen welcomed Councilmember Stevens. She expressed appreciation to the Jubies for continuing to support youth in the community.

Councilmember Phillips welcomed Councilmember Stevens. He stated that he appreciated the police awards ceremony.

Councilmember Soriano:

- He also enjoyed the awards ceremony.
- Snohomish County Sports Hall of Fame Banquet was great.
- He asked about the timeline on the Qwuloolt project. CAO Hirashima discussed the enormous scope of this project and how it has been in process for many years.
- He welcomed Councilmember Stevens.

Councilmember Stevens thanked everyone for the warm welcome. He is looking forward to working with the Council and staff.

Councilmember Vaughan welcomed Councilmember Stevens.

Councilmember Wright:

- She welcomed Councilmember Stevens.
- She requested an excused absence for next Monday.
- She is selling tickets for the Soroptomist Auction on October 23.
- She reported the passing of Jack Blackwell, former City Councilmember from Lake Stevens, and recalled his contributions to his community.

Councilmember Seibert:

- He asked about the public works meeting. Larry Larson reported that this week's meeting has been cancelled and there will not be one for October at all.

- He asked Mayor Nehring to distribute a copy of committee assignments to all councilmembers.
- He remarked that the appointment process tonight was possibly more difficult than getting elected.
- He welcomed Councilmember Stevens.

Council recessed at 10:18 p.m. for a brief recess before reconvening into Executive Session to discuss five items: three items concerning real estate, one potential litigation, and one collective bargaining item with no action being requested and expected to last 20 minutes.

Executive Session – started at 10:25 p.m.

A. Litigation – one item, pursuant to RCW 42.30.110(1)(i)

B. Collective Bargaining - one item, pursuant to RCW 42.30.140(4)(a)

C. Real Estate - Three items, pursuant to RCW 42.30.110(1)(b)

Adjournment

Seeing no further business Mayor Nehring adjourned the meeting at 10:50 p.m.

Approved this _____ day of _____, 2010.

Mayor
Jon Nehring

Asst. Admin. Svcs. Director
Tracy Jeffries



Special Meeting
October 7, 2010

Call to Order

Mayor Nehring called the meeting to order at 5:50 p.m.

Roll Call

Chief Administrative Officer Hirashima gave the roll call. The following staff and councilmembers were in attendance.

Mayor: Jon Nehring

Council: Councilmember Carmen Rasmussen, Councilmember John Soriano, Councilmember Jeff Vaughan, and Councilmember Michael Stevens

Also Present: Chief Administrative Officer Gloria Hirashima, Finance Director Sandy Langdon, City Attorney Grant Weed and Assistant Administrative Services Director Tracy Jeffries

Chief Administrative Officer Hirashima gave the roll call. The following staff and councilmembers were in attendance.

1. An **Ordinance** of the City of Marysville, Washington, relating to contracting indebtedness; providing for the issuance of \$6,180,000 par value of Limited Tax General Obligation Improvement and Refunding Bonds, 2010, of the City for general City purposes to provide the funds necessary (i) to purchase property and buildings for certain government activities, including municipal court, general government, and park activities and other City purposes approved by motion of the City Council (ii) to carry out a current refunding of the City's outstanding Limited Tax General Obligation Refunding Bonds, 1998, and (iii) to pay the administrative costs of such refunding and to pay the cost of issuance and sale of the Bonds; providing for and authorizing the purchase of certain obligations out of the proceeds of the sale of the bonds herein authorized and for the use and application of the money derived from those investments; authorizing the execution of an agreement with U.S. Bank National Association of Seattle, Washington, as refunding trustee; providing for the purchase of bond insurance; fixing the date, form, maturities, interest rates, terms and covenants of the bonds; establishing a bond redemption fund and a project

fund; and approving the sale and providing for the delivery of the bonds to Seattle-Northwest Securities Corporation, of Seattle, Washington.

Sandy Langdon informed council that they had the anticipated bond sale this morning, she said it went well. She introduced Hugh Spitzer from our bond council and Annette Sommer our underwriter from Seattle-Northwest Securities Corporation. Annette Sommer explained the Bond Pricing Results. Hugh Spitzer from Foster Pepper explained the Ordinance that was before council.

Sandy Langdon stated that the purpose of this meeting was to ask the council to adopt the bond ordinance.

Motion made by Councilmember Vaughan, seconded by Councilmember Rasmussen, to approve Ordinance #2830. **Motion** passed unanimously (4-0).

Adjournment

Seeing no further business Mayor Nehring adjourned the meeting at 6:11p.m.

Approved this _____ day of _____, 2010.

Mayor
Jon Nehring

Asst. Admin. Svcs. Director
Tracy Jeffries



Work Session
October 4, 2010

Call to Order / Pledge of Allegiance

Mayor Nehring called the meeting to order at 7:00 p.m. and led those present in the Pledge of Allegiance.

Roll Call

Chief Administrative Officer Hirashima gave the roll call. The following staff and councilmembers were in attendance.

Mayor: Jon Nehring

Council: Councilmember Carmen Rasmussen, Councilmember Jeff Seibert, Councilmember John Soriano, Councilmember Jeff Vaughan, and Councilmember Michael Stevens

Absent: Councilmember Donna Wright, Councilmember Lee Phillips

Also Present: Chief Administrative Officer Gloria Hirashima, Finance Director Sandy Langdon, Chief Smith, Community Information Officer Doug Buell, City Attorney Grant Weed, Public Works Director Kevin Nielsen, Parks and Recreation Director Jim Ballew, Recording Secretary Laurie Hugdahl.

Mayor Nehring commented that Councilmember Wright had notified them that she would be out of town. Councilmember Phillips had called today and indicated he had to work late tonight and would be unable to attend.

Motion made by Councilmember Rasmussen, seconded by Councilmember Seibert, to excuse the absence of Councilmember Wright. **Motion** passed unanimously (5-0).

Committee Reports – None

Councilmember Soriano reported the following from the Public Safety Committee meeting from last Wednesday:

- Two lateral hires from Camano Island are in training. One officer from Lynnwood has a conditional offer. Custody is at full staff, however two will be going on maternity leave soon.

- The NITE Team is performing very well and property & asset seizures resulting from arrests are up.
- The school district will be funding 50% of the costs for 4 SRO's.
- Don Castanares is the civilian employee of the year for our police department.
- The Comprehensive Emergency Management Plan was last updated in 2005. Bob Dohanyk will review.
- They have been informed that the department did not receive the COPS grant.

Presentations - None

Discussion Items

Approval of Minutes

1. Approval of September 13, 2010 City Council Meeting Minutes.
2. Approval of September 20, 2010 City Council Work Session Minutes.

Consent

3. Approval of September 22, 2010 Claims in the Amount of \$1,222,230.94; Paid by Check Number's 65508 through 65683 with no Check Number's Voided.
4. Approval of September 29, 2010 Claims.
5. Approval of October 5, 2010 Payroll.

Review Bids

6. Award Public Safety Building Lighting Retrofit Project.

Public Works Director Nielsen stated that they received a grant and rebate for this project so there is no cost to the City.

7. Award Boys and Girls Club Lighting Retrofit Project.

Staff is still analyzing whether they will be bringing this forward to Council as there are some issues with the lighting.

Public Hearings

New Business

8. Addendum No. 1 to Interlocal Agreement for Jail Services with Snohomish County and the City of Marysville.

Chief Smith noted that this was inadvertently excluded from the last consent agenda, but was discussed several weeks ago. Nothing has changed.

9. Cooperative Purchasing Agreement with the City of Seattle.

Director Nielsen stated that that they are looking at a 12-foot flatbed steel truck and Seattle had one on their list. Because it is an Interlocal agreement we are required by law to have Council act on it even though it is very routine.

10. Purchase Order Number B0623 in the Amount of \$51 ,324.00 to Authorize the Purchase of Replacement Furniture for the Public Works Administration Building from Office Interiors, Inc.

Director Nielsen stated that this is the furniture purchase for the Public Works building; it is being reimbursed through insurance money from the flooding incident. Councilmember Rasmussen questioned the sales tax since it looks like they will be delivering it. Director Nielsen stated that he would verify this.

11. Consent for Use of Public Utility District No. 1 of Snohomish County High Voltage Distribution Line Right-of-Way.

CAO Hirashima explained that this is an easement that they negotiated with PUD for the Smokey Pt. Master Plan area. The city attorney has reviewed the final agreement. Director Nielsen added that they took an extensive look at the line to make sure that they can still provide access to the railroad spur line.

Mayor's Business

Mayor Nehring commented that they had a very busy week last week:

- The Qwuloolt restoration neighborhood meeting on Thursday was very well attended. The crowd was generally very supportive even though there were some concerns expressed. He commended staff members who participated in this event and who were very well prepared - Parks and Recreation Director Jim Ballew, Planning Manager Cheryl Dungan, CAO Gloria Hirashima and Program Specialist Janis Lamoureux.
- On Friday, Mayor Nehring, Councilmembers Stevens, Seibert and Phillips, CAO Hirashima, and Director Nielsen met with the State Department of Commerce and James Palmer, who is a recruiter/business development manager and Sally Harris, one of the regional business managers, to discuss the north end and Marysville's interest in promoting that area.
- He noted that the school district's cross country event at the golf course this weekend was a great event.
- He thanked Jim Ballew and Maryke Burgess for a good meeting at the senior center today.

Staff Business

Sandy Langdon stated that they have been working on the bond issue and have had to change the date of the meeting from this Wednesday to Thursday at 5:45 p.m. Councilmembers Vaughan, Stevens, Rasmussen, and Soriano indicated they could come.

Kevin Nielsen reported that:

- The asphalt is now down on Ingraham; striping will be happening soon. They are shooting for October 29 for a ribbon-cutting.
- Report-a-Pothole is now online. Thanks to Doug Buell for getting this going.
- Scientists are predicting very severe storms this winter. Staff is preparing for this by reviewing the storm system and looking at sand supplies, chains, etc.

Chief Smith commended the Council selection process at the last Council meeting.

Jim Ballew noted that:

- The computer-generated tidal influence model at the Qwuloolt meeting was fascinating and gave a clear idea of how this will impact the area.
- There was a very good meeting today with the seniors down at the senior center.
- The Twilight Run at Cedarcrest was very popular.
- Online registration at the parks department is in process.

Doug Buell discussed the potential for contracting with a content management system for the city's website. The next step is to assemble a website committee to work with the consultant. Councilmember Vaughan commented on items he felt would be important in a new website. Councilmember Rasmussen commented that she likes the emergency alerts capability. Councilmember Seibert asked if solid waste information could be included. Mr. Buell indicated that it could. Councilmember Seibert asked if this was budgeted already. Staff indicated that it was.

Grant Weed stated the need for an executive session to discuss collective bargaining. It was expected to last ten minutes with no action.

Gloria Hirashima:

- Confirmed that the budget work session was scheduled on October 13 from 5:30 to 8 p.m.
- The Qwuloolt meeting was a great meeting. Lots of citizens commented on the walkways and trails. They encouraged the City to advance those throughout the project.
- It was a good meeting with Commerce. They received some ideas about things they could work on such as an incentive list and organizations that they can get more involved with.

Call on Councilmembers

John Soriano commented that the Qwuloolt meeting was very well attended and materials were very well done. There were some very interesting questions.

Michael Steven reported that:

- Friday's meeting was very interesting and productive. The Silicon Energy tour was very informative. This should be a catalyst to getting more technology and manufacturing in the City.
- He is going to be participating in a spelling bee at the historic theater in Everett on Friday night to support the teen center at the Everett Public Library. He invited everyone to attend.

Carmen Rasmussen had no comments.

Jeff Vaughan had no comments.

Jeff Seibert:

- He stated that the meeting on Friday was very good. Silicon energy was very impressive too.
- He asked Kevin Nielsen if the snow plow map is on the website. Director Nielsen said it will be on the website, but it will not be live feed.
- He thanked Paul Rochon and the graffiti team for taking care of the graffiti in their neighborhood.
- There was some discussion about committee assignments. Councilmember Stevens tentatively signed up for the CDBG Committee, Library Board, and Snohomish County Tomorrow (alternate). He indicated that he was also interested in the Public Safety and Public Works.

Recess

Mayor Nehring recessed the meeting at 8:00 p.m. for a short break before reconvening into Executive Session expected to last approximately 10 minutes to discuss collective bargaining with no action taken.

Executive Session - started at 8:20 p.m.

- A. Litigation
- B. Personnel – one item pursuant to RCW 2.30.140(4)(a)
- C. Real Estate

Adjournment

Seeing no further business Mayor Nehring adjourned the meeting at 8:35 p.m.

Approved this _____ day of _____, 2010.


Mayor
Jon Nehring

Asst. Admin. Svcs. Director
Tracy Jeffries

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: October 25, 2010

AGENDA ITEM: Claims	AGENDA SECTION:	
PREPARED BY: Sandy Langdon, Finance Director	AGENDA NUMBER:	
ATTACHMENTS: Claims Listings	APPROVED BY: 	
	MAYOR	CAO
BUDGET CODE:	AMOUNT:	

Please see attached.

RECOMMENDED ACTION:

The Finance and Executive Departments recommend City Council approve the **October 6, 2010** claims in the amount of **\$601,774.83** paid by **Check No.'s 65877 through 65981** with no Check No. voided.

COUNCIL ACTION:

BLANKET CERTIFICATION

CLAIMS
FOR
PERIOD-10

I, THE UNDERSIGNED, DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED OR THE LABOR PERFORMED AS DESCRIBED HEREIN AND THAT THE **CLAIMS** IN THE AMOUNT OF **\$601,774.83 PAID BY CHECK NO.'S 65877 THROUGH 65981 WITH NO CHECK NUMBER VOIDED** ARE JUST, DUE AND UNPAID OBLIGATIONS AGAINST THE CITY OF MARYSVILLE, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND TO CERTIFY SAID CLAIMS.



AUDITING OFFICER

10/7/10

DATE

MAYOR

DATE

WE, THE UNDERSIGNED COUNCIL MEMBERS OF MARYSVILLE, WASHINGTON DO HEREBY APPROVE FOR PAYMENT THE ABOVE MENTIONED **CLAIMS** ON THIS **6th DAY OF OCTOBER 2010.**

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

**CITY OF MARYSVILLE
 INVOICE LIST
 FOR INVOICES FROM 09/30/2010 TO 10/06/2010**

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
65877	ACTIVE NETWORK,LTD	ONLINE SITE CREATION FOR CLASS	RECREATION SERVICES	4,941.30
65878	ADVANTAGE BUILDING S	JANITORIAL SERVICES	WATER FILTRATION PLANT	37.73
	ADVANTAGE BUILDING S		PARK & RECREATION FAC	101.80
	ADVANTAGE BUILDING S		SENIOR CENTER	333.69
	ADVANTAGE BUILDING S		WASTE WATER TREATMENT	403.76
	ADVANTAGE BUILDING S		ADMIN FACILITIES	535.16
	ADVANTAGE BUILDING S		MAINT OF GENL PLANT	581.52
	ADVANTAGE BUILDING S		PUBLIC SAFETY FAC-GENL	605.88
	ADVANTAGE BUILDING S		PARK & RECREATION FAC	620.40
	ADVANTAGE BUILDING S		UTIL ADMIN	653.74
	ADVANTAGE BUILDING S		COURT FACILITIES	950.52
65879	ALLIED EMPLOYERS	10/2010 MEMBERSHIP DUES	PERSONNEL ADMINISTRATIO	2,366.96
65880	AMSBURY, FRED	REFUND SECURITY DEPOSIT	GENERAL FUND	35.00
	AMSBURY, FRED		GENERAL FUND	165.00
65881	ARAMARK UNIFORM	MECHANICS UNIFORM	MAINTENANCE	11.62
	ARAMARK UNIFORM		MAINTENANCE	11.95
	ARAMARK UNIFORM	UNIFORM CLEANING	EQUIPMENT RENTAL	36.44
65882	BAXTER, AMBER	REFUND DEPOSIT FOR RENTAL	GENERAL FUND	100.00
65883	BLACK ROCK CABLE INC	ACCT # CID-1230	CENTRAL SERVICES	493.50
65884	BOEING EMPLOYEES	REFUND BUSINESS LICENSE FEES	GENL FUND BUS LIC & PERMI	50.00
65885	CAHOON, ANNALEE	REFUND DEPOSIT FOR RENTAL	PARKS-RECREATION	90.00
	CAHOON, ANNALEE		GENERAL FUND	100.00
65886	CAPITAL INDUSTRIES	SOLID WASTE CONTAINERS	SOLID WASTE OPERATIONS	5,955.62
	CAPITAL INDUSTRIES		SOLID WASTE OPERATIONS	8,327.45
65887	CARMEUSE INDUSTRIAL	3000 LBS SILICA SAND	WATER/SEWER OPERATION	-937.26
	CARMEUSE INDUSTRIAL		WASTE WATER TREATMENT	11,835.67
65888	CARRS ACE	TRIMMER LINE	SOURCE OF SUPPLY	15.19
	CARRS ACE	WRENCH,BAGS	WATER QUAL TREATMENT	25.91
	CARRS ACE	LEATHER GLOVES,MISC HARDWARE	SOURCE OF SUPPLY	27.75
	CARRS ACE	PADLOCKS	ER&R	468.63
65889	CEMEX	CLASS B ASPHALT	STORM DRAINAGE	2,144.52
65890	CHAMPION BOLT	AREATOR PARTS	WASTE WATER TREATMENT	319.78
65891	CHUCKANUT GOLF CARS	GOLF CART RENTAL	PRO-SHOP	760.00
65892	COLLINS, MARGO	UB 450140000000 5019 139TH PL	WATER/SEWER OPERATION	159.89
65893	COVAD COMMUNICATIONS	INTERNET SERVICES	COMPUTER SERVICES	239.95
65894	CRESSY DOOR CO	INSTALL ROLL UP DOORS-WWTP	WASTE WATER TREATMENT	10,512.48
65895	DAILY JOURNAL OF COM	AD-BOYS & GIRLS CLUB LIGHTING	TRANSPORTATION MANAGEM	417.60
	DAILY JOURNAL OF COM	AD-PSB LIGHTING RETROFIT	TRANSPORTATION MANAGEM	468.00
65896	DEPALMA, ARLINE	INSTRUCTOR SERVICES	SENIOR CENTER	228.00
65897	DESIMONE, GERALDINE	UB 890380000000 5210 79TH PL N	WATER/SEWER OPERATION	74.93
65898	DMH INDUSTRIAL	20 HP MOTOR REBUILD	WASTE WATER TREATMENT	945.67
65899	E&E LUMBER	CABLE TIES	RECREATION SERVICES	6.51
	E&E LUMBER	GRAFFITI SUPPLIES	COMMUNITY DEVELOPMENT-	8.67
	E&E LUMBER		COMMUNITY DEVELOPMENT-	9.32
	E&E LUMBER	PAINT TRAYS	PARK & RECREATION FAC	10.78
	E&E LUMBER	LIGHTS	PARK & RECREATION FAC	19.53
	E&E LUMBER	PRIMER,CEMENT,BUSHINGS,ADAPTER	WATER SERVICES	19.67
	E&E LUMBER	TSP,SPONGE,GLOVES	SENIOR CENTER	28.06
	E&E LUMBER	BALLAST	PARK & RECREATION FAC	28.23
	E&E LUMBER	HOOK & LOOP,SAW BLADE	PARK & RECREATION FAC	29.28
	E&E LUMBER	CONDUIT,COUPLINGS,PVC ELBOW	SOURCE OF SUPPLY	53.60
	E&E LUMBER	PAINT,ROLLER,TRAY	PARK & RECREATION FAC	60.35
	E&E LUMBER	COUPLING,GLUE,PIPE	PARK & RECREATION FAC	77.14
	E&E LUMBER	PAINT,TOOL,ROLLER COVER	PARK & RECREATION FAC	107.30
	E&E LUMBER	ROLLER COVER,TRAY,TAPE,PUTTY,P	SENIOR CENTER	143.16
65900	EDGE ANALYTICAL	LAB ANALYSIS	WATER QUAL TREATMENT	10.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	10.00

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65900	EDGE ANALYTICAL	LAB ANALYSIS	WATER QUAL TREATMENT	10.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	10.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	10.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	10.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	20.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	20.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	160.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	383.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	1,008.00
65901	ELSTER AMCO WATER	SINGLE PORT MTU'S W/O METERS	WATER CAPITAL PROJECTS	12,054.60
	ELSTER AMCO WATER	METERS	WATER CAPITAL PROJECTS	287,947.48
65902	FDIC RECEIVERSHIP	UB 041002500000 10025 65TH DR	WATER/SEWER OPERATION	119.23
65903	FEDEX	SHIPPING EXPENSE	COMPUTER SERVICES	48.70
65904	FEENEY WIRELESS	AIRLIX ETHERNET RADIO	PUMPING PLANT	476.24
65905	FINISHING TOUCH	REFUND BUSINESS LICENSE FEES	GENL FUND BUS LIC & PERMI	50.00
65906	FINLEY, JOSEPH	REIMBURSE MILEAGE	COMPUTER SERVICES	55.45
65907	FOOTJOY	GOLF SHOES	GOLF COURSE	60.68
65908	FRENCH, JON	REFUND DEPOSIT FOR RENTAL	GENERAL FUND	100.00
65909	GENERAL CHEMICAL	ALUM SULFATE 12.216 DRY TON	WASTE WATER TREATMENT	3,343.19
65910	GOVCONNECTION INC	MISC PERIPHERALS	COMPUTER SERVICES	26.44
65911	GRAYBAR ELECTRIC CO	SCREW DRIVER,WALL PLATE,TAPE,B	UTIL ADMIN	54.34
65912	GREENSHIELDS	STAINLESS STEEL CABLE	WASTE WATER TREATMENT	224.95
	GREENSHIELDS		WASTE WATER TREATMENT	303.69
65913	HATCH, TNESSA	REFUND ANIMAL LICENSE FEES	NON-BUS LICENSES AND PEF	25.00
65914	HD FOWLER COMPANY	1" GASKETS	WATER/SEWER OPERATION	20.64
	HD FOWLER COMPANY	METER BOX COVERS	WATER SERVICES	23.48
	HD FOWLER COMPANY	BROOM HANDLES,BRACKETS	ER&R	57.64
	HD FOWLER COMPANY	1" BALL VALVES	WATER/SEWER OPERATION	115.75
	HD FOWLER COMPANY	COUPLINGS,BRASS HARDWARE	WATER/SEWER OPERATION	133.30
	HD FOWLER COMPANY	3/4" RUBBER GASKETS,BOLT KITS	WATER/SEWER OPERATION	145.74
	HD FOWLER COMPANY	3/4" BALL VALVES	WATER/SEWER OPERATION	146.02
	HD FOWLER COMPANY	12" RESETTERS	WATER/SEWER OPERATION	181.04
	HD FOWLER COMPANY	BALL VALVE W/LOCK WINGS	WATER/SEWER OPERATION	243.38
	HD FOWLER COMPANY	VALVE BOX RISERS	WATER/SEWER OPERATION	278.50
	HD FOWLER COMPANY	GASKETS	WATER/SEWER OPERATION	325.59
	HD FOWLER COMPANY	12" RESETTERS,BOLT KITS	WATER/SEWER OPERATION	404.64
	HD FOWLER COMPANY	RESETTERS,GASKETS	WATER/SEWER OPERATION	540.55
65915	HERTZ EQUIPMENT RENT	3 TON ROLLER RENTAL	ARTERIAL STREET-GENL	293.76
	HERTZ EQUIPMENT RENT	LIFT RENTAL	PARK & RECREATION FAC	404.00
65916	HILL, BEVERLY	REFUND CLASS FEES	PARKS-RECREATION	23.00
65917	HODGES, RONALD & CON	UB 767701000000 7701 64TH PL N	WATER/SEWER OPERATION	44.89
65918	HOWLAND, FRANCES	INSTRUCTOR SERVICES	SENIOR CENTER	144.00
65919	HUDSON, CAROL	UB 985900000000 5900 45TH PL N	WATER/SEWER OPERATION	159.10
65920	IKON OFFICE SOLUTION	COPIER IMAGE CHARGES	EXECUTIVE ADMIN	-102.77
	IKON OFFICE SOLUTION		EQUIPMENT RENTAL	1.14
	IKON OFFICE SOLUTION		BUILDING MAINTENANCE	1.14
	IKON OFFICE SOLUTION		GENERAL SERVICES - OVERT	7.07
	IKON OFFICE SOLUTION		WASTE WATER TREATMENT	7.79
	IKON OFFICE SOLUTION		SENIOR CENTER	8.42
	IKON OFFICE SOLUTION		OFFICE OPERATIONS	8.97
	IKON OFFICE SOLUTION		POLICE PATROL	10.97
	IKON OFFICE SOLUTION		MAINTENANCE	16.34
	IKON OFFICE SOLUTION		UTILITY BILLING	17.95
	IKON OFFICE SOLUTION		CITY CLERK	20.02
	IKON OFFICE SOLUTION		FINANCE-GENL	20.02
	IKON OFFICE SOLUTION		PROBATION	23.63
	IKON OFFICE SOLUTION		LEGAL - PROSECUTION	53.49

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65920	IKON OFFICE SOLUTION	COPIER IMAGE CHARGES	PARK & RECREATION FAC	57.83
	IKON OFFICE SOLUTION		PERSONNEL ADMINISTRATIO	76.20
	IKON OFFICE SOLUTION		MUNICIPAL COURTS	82.31
	IKON OFFICE SOLUTION		OFFICE OPERATIONS	94.89
	IKON OFFICE SOLUTION		POLICE INVESTIGATION	107.20
	IKON OFFICE SOLUTION		EXECUTIVE ADMIN	108.30
	IKON OFFICE SOLUTION		COMMUNITY INFO SERV	146.82
	IKON OFFICE SOLUTION		UTIL ADMIN	160.29
	IKON OFFICE SOLUTION		ENGR-GENL	184.43
	IKON OFFICE SOLUTION		DETENTION & CORRECTION	209.41
	IKON OFFICE SOLUTION		COMMUNITY DEVELOPMENT-	240.54
	IKON OFFICE SOLUTION		OFFICE OPERATIONS	391.76
65921	INDUSTRIAL CONTROLS	88TH ST LIFT STATION MONITORIN	SEWER LIFT STATION	464.16
65922	INFILCO DEGREMONT	TORQUE CLUTCH	WASTE WATER TREATMENT	309.34
65923	IRON MOUNTAIN	1 1/4" ROCK	STORM DRAINAGE	103.56
65924	KENWORTH NORTHWEST	MIRRORS	ER&R	69.72
65925	KRISTOFFERSEN, MONIK	INSTRUCTOR SERVICES	RECREATION SERVICES	126.00
65926	LANE & ASSOCIATES	ROW & RELOCATION SERVICES	GMA - STREET	4,844.75
65927	LARSEN, JAMES & ANIT	UB 986414350000 6414 35TH ST N	WATER/SEWER OPERATION	17.40
65928	LAWN EQUIPMENT SUPPL	ECHO STARTER ASSEMBLY	PARK & RECREATION FAC	89.80
65929	MADSEN, ERICA	REFUND DEPOSIT FOR RENTAL	GENERAL FUND	100.00
65930	MAILFINANCE	MAIL MACHINE LEASE	COMMUNITY DEVELOPMENT-	21.40
	MAILFINANCE		ENGR-GENL	21.40
	MAILFINANCE		UTIL ADMIN	21.40
	MAILFINANCE		POLICE INVESTIGATION	21.40
	MAILFINANCE		POLICE PATROL	21.40
	MAILFINANCE		OFFICE OPERATIONS	21.40
	MAILFINANCE		DETENTION & CORRECTION	21.40
	MAILFINANCE		OFFICE OPERATIONS	21.40
	MAILFINANCE		OFFICE OPERATIONS	21.40
	MAILFINANCE		CITY CLERK	21.41
	MAILFINANCE		EXECUTIVE ADMIN	21.41
	MAILFINANCE		FINANCE-GENL	21.41
	MAILFINANCE		PERSONNEL ADMINISTRATIO	21.41
	MAILFINANCE		UTILITY BILLING	21.41
	MAILFINANCE		LEGAL - PROSECUTION	21.41
65931	MARYSVILLE PRINTING	SIGNS	PRO-SHOP	31.08
	MARYSVILLE PRINTING	ENVELOPES	COMMUNITY DEVELOPMENT-	59.77
65932	MCGREGOR HARDWARE	DCI AUTO DOOR HOLDER-PSB	PUBLIC SAFETY FAC-GENL	70.59
65933	MONTEREY CLUB	GOLF SHIRTS	GOLF COURSE	280.57
65934	MWH AMERICAS, INC.	PROFESSIONAL SERVICES	WATER CAPITAL PROJECTS	27,370.57
65935	NAUTILUS ENVIRONMENT	BIOASSAY ACUTE TOXICITY TESTIN	WASTE WATER TREATMENT	600.00
65936	NELSON PETROLEUM	DIESEL AND GASOLINE CONSUMED	MAINTENANCE	847.47
65937	NEXTEL	ACCT #495802314	IS REPLACEMENT ACCOUNTS	17.84
	NEXTEL		IS REPLACEMENT ACCOUNTS	17.84
	NEXTEL		IS REPLACEMENT ACCOUNTS	17.84
	NEXTEL		IS REPLACEMENT ACCOUNTS	17.95
	NEXTEL		IS REPLACEMENT ACCOUNTS	35.68
	NEXTEL		IS REPLACEMENT ACCOUNTS	42.44
	NEXTEL		IS REPLACEMENT ACCOUNTS	50.19
	NEXTEL		IS REPLACEMENT ACCOUNTS	53.52
	NEXTEL		IS REPLACEMENT ACCOUNTS	71.36
	NEXTEL		IS REPLACEMENT ACCOUNTS	71.39
	NEXTEL		IS REPLACEMENT ACCOUNTS	90.56
	NEXTEL		IS REPLACEMENT ACCOUNTS	92.78
	NEXTEL		IS REPLACEMENT ACCOUNTS	118.84
	NEXTEL		IS REPLACEMENT ACCOUNTS	133.00

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65937	NEXTEL	ACCT #495802314	IS REPLACEMENT ACCOUNTS	151.39
	NEXTEL		IS REPLACEMENT ACCOUNTS	167.42
	NEXTEL		IS REPLACEMENT ACCOUNTS	184.02
	NEXTEL		IS REPLACEMENT ACCOUNTS	234.38
	NEXTEL		IS REPLACEMENT ACCOUNTS	260.77
	NEXTEL		IS REPLACEMENT ACCOUNTS	323.05
	NEXTEL		IS REPLACEMENT ACCOUNTS	327.64
	NEXTEL		IS REPLACEMENT ACCOUNTS	387.00
	NEXTEL		IS REPLACEMENT ACCOUNTS	434.68
	NEXTEL		IS REPLACEMENT ACCOUNTS	1,557.28
65938	NEXTEL	ACCT #130961290	WATER FILTRATION PLANT	47.87
	NEXTEL		SEWER LIFT STATION	47.87
65939	NORTHSTAR CHEMICAL	SODIUM HYPOCHLORITE	WATER QUAL TREATMENT	1,328.61
65940	NORTHWEST CASCADE	HONEY BUCKET	PARK & RECREATION FAC	111.38
65941	OFFICE DEPOT	OFFICE SUPPLIES	CITY CLERK	3.80
	OFFICE DEPOT		LEGAL-GENL	5.92
	OFFICE DEPOT		BUILDING MAINTENANCE	7.68
	OFFICE DEPOT		EQUIPMENT RENTAL	7.68
	OFFICE DEPOT		ENGR-GENL	9.86
	OFFICE DEPOT		COMPUTER SERVICES	14.92
	OFFICE DEPOT		UTIL ADMIN	16.14
	OFFICE DEPOT		COMMUNITY DEVELOPMENT-	16.85
	OFFICE DEPOT		UTIL ADMIN	16.94
	OFFICE DEPOT		ENGR-GENL	17.21
	OFFICE DEPOT		COMMUNITY DEVELOPMENT-	44.49
	OFFICE DEPOT	TONER	UTIL ADMIN	52.46
	OFFICE DEPOT	OFFICE SUPPLIES	COMMUNITY DEVELOPMENT-	55.14
	OFFICE DEPOT		LEGAL-GENL	100.35
	OFFICE DEPOT		SENIOR CENTER	127.02
65942	PACIFIC POWER PROD.	TOGGLE/ROCKER SWITCH	PARK & RECREATION FAC	96.66
65943	PACIFIC TOPSOILS	ASHPALT DUMP	STORM DRAINAGE	118.00
	PACIFIC TOPSOILS	ASHPALT DUMP	STORM DRAINAGE	118.00
	PACIFIC TOPSOILS		STORM DRAINAGE	118.00
65944	PARKSON CORP.	PVC PIPE,INLET SCREEN,ORINGS,P	WATER/SEWER OPERATION	-43.20
	PARKSON CORP.		WASTE WATER TREATMENT	545.56
65945	PARTS STORE, THE	OIL	MAINTENANCE	6.07
	PARTS STORE, THE	AIR AND FUEL FILTERS	ER&R	67.45
	PARTS STORE, THE	TRAILER BALL MOUNT	MAINTENANCE	67.95
	PARTS STORE, THE	OIL FILTER	MAINTENANCE	71.08
	PARTS STORE, THE	OIL FILTER,OIL,ADDITIVE,TIES	ER&R	114.33
	PARTS STORE, THE	AIR,FUEL FILTERS,BATTERIES W/C	ER&R	354.04
65946	PEACE OF MIND	MINUTE TAKING SERVICE	CITY CLERK	142.60
65947	PEARSON, KURT & CONN	UB 031490146702 7322 88TH ST N	WATER/SEWER OPERATION	21.67
65948	PERRY, SUZANNE & MIC	UB 810960000000 4917 65TH ST N	WATER/SEWER OPERATION	231.20
65949	PETTY CASH- POLICE	PARKING,INMATE SUPPLIES,REF BO	POLICE ADMINISTRATION	6.00
	PETTY CASH- POLICE		POLICE ADMINISTRATION	6.99
	PETTY CASH- POLICE		POLICE ADMINISTRATION	19.02
	PETTY CASH- POLICE		POLICE TRAINING-FIREARMS	21.60
	PETTY CASH- POLICE		OFFICE OPERATIONS	24.00
	PETTY CASH- POLICE		DETENTION & CORRECTION	40.75
65950	PETTY CASH- PW	PARKING,PLATES,LICENSING,PHOTO	UTIL ADMIN	3.00
	PETTY CASH- PW		UTIL ADMIN	3.25
	PETTY CASH- PW		ENGR-GENL	5.00
	PETTY CASH- PW		UTIL ADMIN	6.00
	PETTY CASH- PW		UTIL ADMIN	19.54
	PETTY CASH- PW		UTIL ADMIN	20.00
	PETTY CASH- PW		WATER SERVICE INSTALL	23.31

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65950	PETTY CASH- PW	PARKING,PLATES,LICENSING,PHOTO	EQUIPMENT RENTAL	37.25
65951	PLAYSCAPES NORTHWEST	REPLACEMENT SWING SEATS	PARK & RECREATION FAC	493.48
65952	PROTHMAN COMPANY	PROFESSIONAL SERVICES	COMMUNITY DEVELOPMENT-	993.77
	PROTHMAN COMPANY	COMM DEVELOPMENT DIRECTOR SEAR	COMMUNITY DEVELOPMENT-	6,500.00
65953	PUD	ACCT #2013-8099-5	PUMPING PLANT	28.32
	PUD	ACCT #2030-6201-3	STREET LIGHTING	74.64
	PUD	ACCT #2034-3089-7	STREET LIGHTING	100.64
	PUD	ACCT #2026-8910-5	WASTE WATER TREATMENT	141.95
	PUD	ACCT #2024-6354-3	SEWER LIFT STATION	146.71
	PUD	ACCT #2024-9063-7	SEWER LIFT STATION	197.11
	PUD	ACCT #2020-3007-8	TRANSPORTATION MANAGEM	215.34
	PUD	ACCT #2022-9433-6	STREET LIGHTING	228.38
	PUD	ACCT #2025-7232-7	STREET LIGHTING	255.57
65954	RAMEY, THERESA	REFUND DEPOSIT FOR RENTAL	GENERAL FUND	100.00
65955	REYES, ADRIANA		GENERAL FUND	100.00
65956	REYNOLDS, KIM		GENERAL FUND	100.00
65957	RIDGETOP, INC	PAY ESTIMATE # 1	GOLF COURSE	-1,316.65
	RIDGETOP, INC		GOLF ADMINISTRATION	28,597.64
65958	ROE, CHELSEY	REFUND DEPOSIT FOR RENTAL	GENERAL FUND	100.00
65959	SIMPLOT PARTNERS	GREENS FERTILIZER	MAINTENANCE	1,543.31
65960	SNO CO TREASURER	CREDIT INMATE PRESCRIPTIONS	DETENTION & CORRECTION	-469.14
	SNO CO TREASURER	INMATE PRESCRIPTIONS	DETENTION & CORRECTION	835.82
	SNO CO TREASURER		DETENTION & CORRECTION	1,884.77
65961	SNO HEALTH DISTRICT	PUBLIC RECORDS REQUEST-CEDAR G	COMMUNITY DEVELOPMENT-	108.61
65962	SOUND SAFETY	GLOVES	ER&R	135.28
	SOUND SAFETY	LATEX GLOVES	ER&R	232.41
65963	SPRINGBROOK NURSERY	2 YDS GRAVEL	PARK & RECREATION FAC	39.85
	SPRINGBROOK NURSERY	10 YDS GRAVEL	PARK & RECREATION FAC	199.25
65964	STELLAR INDUSTRIAL S	PLATERS BRUSH,TAPE,WELDERS BRU	BUILDING MAINTENANCE	72.10
65965	SYSTEMS INTERFACE	UPS CONTROL UNIT,BATTERY MODUL	WATER RESERVOIRS	1,048.00
65966	TARPLEY, CAROLINE	REFUND CLASS FEES	PARKS-RECREATION	45.00
65967	TAYLORMADE	R9 FW METAL	GOLF COURSE	217.77
65968	TRANSPORTATION, DEPT	PROJECT COSTS 8/2010	GMA - STREET	77,500.29
65969	TYLER TECHNOLOGIES	OSDBA SUPPORT	COMPUTER SERVICES	12,260.22
	TYLER TECHNOLOGIES	LICENSING SUPPORT	COMPUTER SERVICES	49,040.88
65970	UNITED PARCEL SERVIC	SHIPPING EXPENSE	SEWER MAIN COLLECTION	288.23
65971	UNITED PIPE & SUPPLY	REPLACEMENT GASKETS	WATER SERVICES	32.92
	UNITED PIPE & SUPPLY	PVC TEE	WATER SERVICES	61.91
65972	UNITED RENTALS	FIN BOARD	WATER DIST MAINS	520.13
	UNITED RENTALS	FORM BOARDS	STORM DRAINAGE	520.13
65973	VERIZON/FRONTIER	ACCT #107355912203	WASTE WATER TREATMENT	0.02
	VERIZON/FRONTIER	ACCT #1101641995410	UTIL ADMIN	30.22
	VERIZON/FRONTIER	ACCT #107355912203	MUNICIPAL COURTS	51.46
	VERIZON/FRONTIER		ENGR-GENL	51.46
	VERIZON/FRONTIER		EXECUTIVE ADMIN	51.46
	VERIZON/FRONTIER		PERSONNEL ADMINISTRATIO	51.46
	VERIZON/FRONTIER		UTILITY BILLING	51.46
	VERIZON/FRONTIER		LIBRARY-GENL	51.46
	VERIZON/FRONTIER		SENIOR CENTER	51.46
	VERIZON/FRONTIER		POLICE PATROL	51.46
	VERIZON/FRONTIER		GENERAL SERVICES - OVERF	51.46
	VERIZON/FRONTIER	ACCT #106853520208	MAINT OF GENL PLANT	53.58
	VERIZON/FRONTIER	ACCT #107747568401	OFFICE OPERATIONS	53.58
	VERIZON/FRONTIER	ACCT #1103241996301	UTIL ADMIN	65.73
	VERIZON/FRONTIER	ACCT #1108541996810	UTIL ADMIN	65.73
	VERIZON/FRONTIER	ACCT #1105841995206	UTIL ADMIN	75.89
	VERIZON/FRONTIER	ACCT #105660553702	SEWER LIFT STATION	90.66

**CITY OF MARYSVILLE
 INVOICE LIST**

FOR INVOICES FROM 09/30/2010 TO 10/06/2010

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
65973	VERIZON/FRONTIER	ACCT #64811477782	WATER FILTRATION PLANT	102.00
	VERIZON/FRONTIER	ACCT #107355912203	COMMUNICATION CENTER	102.91
	VERIZON/FRONTIER		DETENTION & CORRECTION	102.91
	VERIZON/FRONTIER		POLICE ADMINISTRATION	102.91
	VERIZON/FRONTIER		GOLF ADMINISTRATION	102.91
	VERIZON/FRONTIER	ACCT #100152074306	ADMIN FACILITIES	107.15
	VERIZON/FRONTIER	ACCT #101451140308	PUBLIC SAFETY FAC-GENL	107.15
	VERIZON/FRONTIER	ACCT #107355912203	GOLF ADMINISTRATION	154.37
	VERIZON/FRONTIER		OFFICE OPERATIONS	154.37
	VERIZON/FRONTIER	ACCT #10624354707	TRANSPORTATION MANAGEM	180.68
	VERIZON/FRONTIER	ACCT #107355912203	WASTE WATER TREATMENT	205.79
	VERIZON/FRONTIER		ADMIN FACILITIES	205.83
	VERIZON/FRONTIER		COMMUNITY DEVELOPMENT-	205.83
	VERIZON/FRONTIER		PARK & RECREATION FAC	257.29
	VERIZON/FRONTIER		UTIL ADMIN	285.82
65974	VERIZON/FRONTIER	METER READING PROF SERVICES	METER READING	406.60
65975	WA STATE TREASURER	FORFEITED PROPERTY 3RD QTR 201	DRUG SEIZURE	1,165.80
65976	WASHINGTON STATE UNV	PESTICIDE RECERT CLASS 1/2011	PARK & RECREATION FAC	100.00
65977	WASTE MANAGEMENT	SERVICE @ DEERING	PARK & RECREATION FAC	65.54
65978	WAXIE SANITARY SUPPL	JANITORIAL SUPPLIES	PARK & RECREATION FAC	105.85
65979	WESTERN FACILITIES	CLEANING SUPPLIES	MAINT OF GENL PLANT	66.26
65980	WOODMANSEE, LAUREN	INSTRUCTOR SERVICES	RECREATION SERVICES	535.50
65981	WRIGHT, DONNA	REIMBURSE MILEAGE	CITY COUNCIL	18.64

WARRANT TOTAL:

601,774.83

REASON FOR VOIDS:

- INITIATOR ERROR
- WRONG VENDOR
- CHECK LOST IN MAIL

CITY OF MARYSVILLE AGENDA BILL
EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: October 25, 2010

AGENDA ITEM: Contract Award – Boys and Girls Club Lighting Retrofit	
PREPARED BY: Jeff Laycock, Project Engineer	DIRECTOR APPROVAL:
DEPARTMENT: Public Works, Engineering	
ATTACHMENTS: <ul style="list-style-type: none"> • Certified Bid Tabulation • Vicinity Map 	
BUDGET CODE:	AMOUNT: X

SUMMARY:

The Boys and Girls Club Lighting Retrofit project includes the retrofit of existing lighting and florescent fixtures within the Boys and Girls Club located on 10th St.

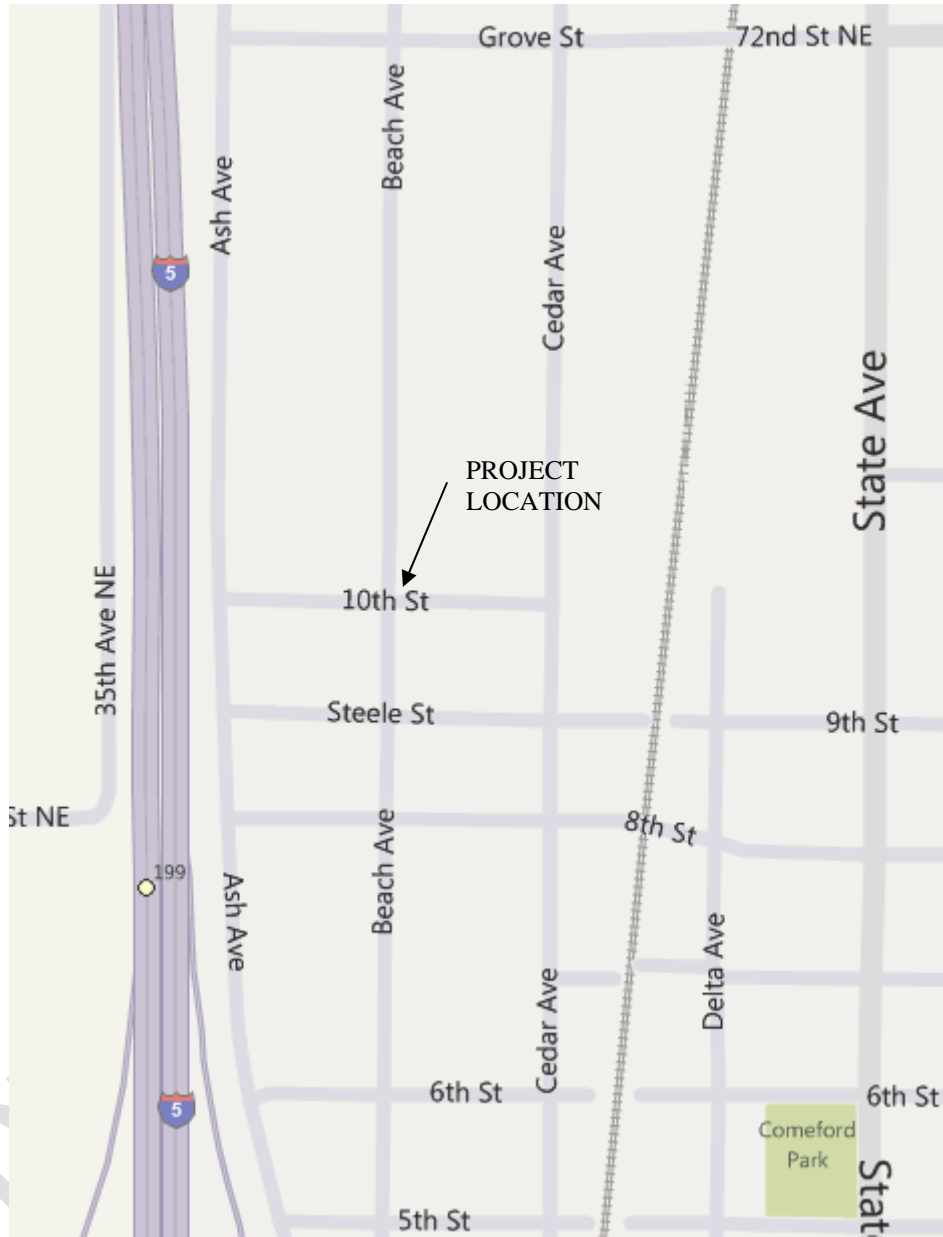
The City was awarded \$5,882 in Energy Efficiency and Conservation Block Grants (EECBG) for this project. In addition, the project is estimated to receive up to \$5,224.52 in rebates from Snohomish County PUD by converting to energy efficient lighting.

The project was advertised for a September 30, 2010 bid opening. The City received six (6) bids as shown on the attached bid tabulation. The low bidder was DC Electric, Inc. References have been checked and found to be satisfactory.

Contract Bid:	\$ 9,900.00
Management Reserve (Included in Bid as Minor Change):	\$ 1,000.00
Sales Tax at 8.6%:	\$ 937.40
Bid Total:	\$ 11,837.40
EECBG:	\$ (\$5,882.00)
Estimated PUD Rebate:	\$ (\$5,224.52)
Total:	\$ X

RECOMMENDED ACTION: Staff recommends that Council authorize the Mayor to award the bid for the Boys and Girls Club Lighting Retrofit contract to **X** in the amount of \$ **X** including Washington State Sales Tax and approve a management reserve of \$**X** for a total allocation of \$ **X**.

Vicinity Map



CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE:

AGENDA ITEM: Third Facility Use Agreement with US Bankruptcy Court	AGENDA SECTION:	
PREPARED BY: Suzanne Elsner, Court Administrator <i>Sje</i>	AGENDA NUMBER:	
ATTACHMENTS: Facility Use Agreement	APPROVED BY:	
	MAYOR	CAO
BUDGET CODE:	AMOUNT:	

The United States Bankruptcy Court Western Washington Division has used the Marysville Municipal Court Facility since 2008 for preliminary bankruptcy hearings. Hearings are scheduled on the second and fourth Wednesday of each month. Hearings include Federal Judge Overstreet, a US Marshall, Court reporter and US Bankruptcy Clerk. Several attorneys and clients also appear for these hearings. The Bankruptcy participants begin to enter the building at 8:00 am and calendars start at 9:00 am and end at noon. Holding the hearings in the Municipal Court Building requires no staff time or participation. Since early 2010 there has been an increase in the size of the calendars and the time that Bankruptcy Court is using the facility. Therefore, we have requested an increase in the usage fee from \$100.00 per session to \$250.00 per session.

Allowing the US Bankruptcy Court to use the facility for their court hearings has very little impact on the function of the Marysville Municipal Court and the calendars are easily merged into the Court's current schedule. Therefore, we see no reason not to continue the relationship with the United States Bankruptcy Court.

RECOMMENDED ACTION: Authorize the Mayor to sign the Renewal Facility Use Agreement with the United States Bankruptcy Court.
--

COUNCIL ACTION:

AFTER RECORDING RETURN TO:
City of Marysville
Attention: City Clerk's Office
1049 State Street
Marysville, WA 98270

**THIRD RENEWAL/AMENDMENT
OF
INTERGOVERNMENTAL FACILITIES USE AGREEMENT
BETWEEN THE CITY OF MARYSVILLE AND
THE U.S. BANKRUPTCY COURT**

THIS THIRD RENEWAL/AMENDMENT to the INTERGOVERNMENTAL FACILITIES USE AGREEMENT is made and entered into this day by and between the City of Marysville, a non-charter code city of the State of Washington, (hereafter "City") and the United States Bankruptcy Court for the Western District of Washington (hereafter "Bankruptcy Court") for the use by the Bankruptcy Court of certain facilities owned by the City.

WHEREAS, the parties entered into an INTERGOVERNMENTAL FACILITIES USE AGREEMENT recorded at Snohomish County Auditor's office on January 30, 2008; and

WHEREAS, the parties have renewed the Agreement once and wish to renew the agreement again pursuant to Paragraph 4 PERIOD AND TIME OF USE by exercising "Option 3": from January 1, 2011 to December 31, 2011 of the Agreement; and

WHEREAS, the parties wish to agree to the option to renew the agreement; purposes and activities, and under the terms and conditions, set forth below;

Now, therefore, in consideration of the above representations and the terms and conditions set forth herein, the parties agree as follows:

Section 1. Pursuant to Paragraph 4 PERIOD AND TIME OF USE, the parties agree to exercise Option 3 and renew the Agreement from January 1, 2011 to December 31, 2011.

Section 2. Except as provided herein, all other provision of the INTERGOVERNMENTAL FACILITIES USE AGREEMENT recorded at Snohomish County Auditor's office on January 30, 2008 shall remain in full force and effect, unchanged.

Section 3. PAYMENT: In consideration of the grant of permission herein contained, the Bankruptcy Court shall pay to the City the following amount(s) in the manner set forth:

- a. \$250 for each half-day session, a minimum of two sessions per month
- b. Payment on or before the 15th day of each month for sessions conducted during the preceding month by check payable to the City of Marysville at City Hall, 1049 State Ave, Marysville, WA 98270.

Section 4. SEVERABILITY: The terms of this Agreement are severable such that if one or more provisions are declared illegal, void, or unenforceable, the remainder of the provisions shall continue to be valid and enforceable.

Section 5: The undersigned certify that they are authorized to sign this Agreement on behalf of the Bankruptcy Court and the City, respectively, and that the Bankruptcy Court and the City acknowledge and accept the terms and conditions herein and attached hereto.

~~ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS FOR THE UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF WASHINGTON:~~

By:  _____

Name: Don Price

Position: Property & Procurement Specialist

Dated: October, 5 2002010

CITY OF MARYSVILLE

By: _____
Jon Nehring


Position: Mayor

Dated: _____ 200 _____

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: October 25, 2010

AGENDA ITEM: Renewal Contract Between City of Marysville and Marysville School District for School Resource Officer Services for 2010-2011 School Year	
PREPARED BY: Robb Lamoureux, Commander	DIRECTOR APPROVAL: Chief Rick Smith 
DEPARTMENT: Police Department	
ATTACHMENTS: Contract Agreement 2010-2011 Payment Schedule Addendum	
BUDGET CODE:	AMOUNT:

SUMMARY:

Since 1998 the City of Marysville and Marysville School District have been partners in the School Resource Officer Program, which places assigned police officers directly onto secondary school campuses for the purpose of creating a safe school environment.

This partnership has been formally created via working contracts between the two entities. The contract establishes program conditions and outlines cost responsibilities. Since establishment of the SRO program costs have been equally shared between the City and School District during the ten-month school year.

This renewal contract is for a one year period, covering the 2010-2011 school year. It has been approved and signed by Superintendent, Dr. Larry Nyland.

The contract and payment schedule addendum have been approved as to form by City Attorney Grant Weed.

RECOMMENDED ACTION: Staff recommends that Council Authorize the Mayor to sign both the Contract Agreement and Payment Addendum between the City of Marysville and Marysville School District for School Resource Officer services.

**Marysville School District No. 25
and
City of Marysville
School Resource Officer Agreement**

This agreement made between and entered into this ____ day of October 2010, by and between the City of Marysville (hereinafter referred to as the City) and the Marysville School District (hereinafter referred to as the School District).

WITNESSETH

Whereas, the City of Marysville and the Marysville School District agree that it is in the best interest of both parties to continue with the School Resource Officer program by assigning four police officers to selected schools of the District.

and;

Whereas, the Marysville School District agrees to provide partial funding for the aforementioned School Resource Officer(s) for a one year period for the 2010-2011 school year, unless terminated according to Section VI of this agreement.

Now Therefore it is Mutually Agreed As Follows:

I.

The Marysville Police Department and the Marysville School District will assign four regularly employed Marysville Police Officers to serve as School Resource Officers within the District's schools. The Officer's presence will provide assistance with safety and security issues on school campuses and at other school events. The Officer shall respond to all reports of criminal activity which have occurred on his/her assigned campus and shall assist to identify, investigate, deter, and prevent incidents involving weapons, violence, harassment, intimidation, youth gang involvement or other crime related activities. In addition, the Officer will serve as a positive resource to provide school students, parents, school staff and administrators with information, support, and problem-solving mediation and facilitation.

It is agreed that the City shall select the Officer to be assigned to the schools in consultation with the school administration. The Officer shall be assigned to the school assignment for their regular workweek minus any scheduled vacation time, sick time, training time, court time, or any other police related emergency.

Scheduling for the Officer while school is in session will be mutually agreed upon by the school administration, and the Officer's police supervisor. On scheduled workdays when school is not in session (summer vacation, school breaks, holidays, etc.) the Officer will work on assignments as determined by the police supervisor.

When school is in session, the Marysville Police Department shall furnish written reports on a monthly basis to the Marysville School District, said reports detailing all activities performed by the Officer at schools.

II.

The Marysville School District shall make an annual payment to the City due by June 30th of each calendar year following completion of the school year for which police service was provided. The annual payment will be made in June 2011, which represents the duration of the contract agreement. The payment shall be the School District total obligation in the funding of the School Resource Officer for each school year. The sum amount of the School District's obligation shall be equal to 50 percent of the total cost of the assigned officer's salary, benefits and anticipated overtime for service provided during the ten-month school calendar year, and shall be in accordance with the attached Payment Schedule Addendum.

III.

It is understood and agreed to that this agreement is entered into solely for the benefit of the parties hereto and gives no right to any other party. No joint venture or partnership is formed as a result of this agreement. Each party hereto agrees to be responsible and assumes liability for its own acts or omissions, and those of its officers, agents, or employees for any incident arising out of or in connection with this agreement, to the fullest extent required by the law, and agrees to save, indemnify, defend, and hold the other party harmless from any such liability. In the case of negligence of multiple parties, any damages allowed shall be assessed in proportion to the percentage of negligence attributable to each party, and each party shall have the right to seek contribution from the other party in the proportion to the percentage of negligence attributable to the other party.

IV.

No liability shall attach to the City or the District by reason of entering into this agreement except as expressly provided herein.

V.

Any disputes between the District and the City in regard to this agreement shall be referred for determination to the Chief of Police, or his/her designee, and the Superintendent and her/his designee, for resolution. Failure for resolution may be brought before the School Board and City Council.

VI.

This agreement is subject to termination or renegotiations at the request of either party if such party gives advance notice not less than six (6) months prior to the end of any calendar year of its intent to renegotiate or terminate the agreement. In the event of termination of the agreement, the School District shall pay the City a pro rated amount based upon the number of days worked compared to the total number of days in the school year.

VII.

The venue for any lawsuit arising out of this agreement shall be Snohomish County, Washington.

VIII.

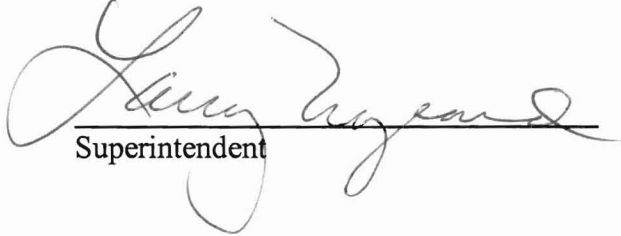
This agreement constitutes the entire understanding between the parties and no other agreements, oral, or otherwise, are in existence or shall be deemed binding upon the parties. This agreement may be amended by written instrument executed by the parties.

In Witness Whereof, the parties hereto have executed this agreement on the day and year first above written.


City of Marysville

Marysville School District

Mayor



Superintendent



Chief of Police

Approved as to Form:

City Attorney

Marysville School District No. 25
and
City of Marysville
School Resource Officer Agreement

Payment Schedule Addendum

2010 – 2011 school year:

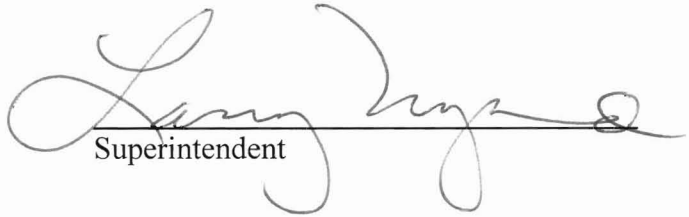
SRO(1)	September 2010 – June 2011	\$ 46,893	salary, benefits and estimated overtime
SRO(2)	September 2010 – June 2011	\$ 48,888	
SRO(3)	September 2010 – June 2011	\$ 46,309	
SRO(4)	September 2010 – June 2011	\$ 44,259	
		\$ 186,349	total

The above payment schedule is based on salary structure in accordance with the current police officer's collective bargaining agreement with anticipated 2011 salary cost of living increases added. Payments shall be made by June 30th 2011.


City of Marysville

Marysville School District

Mayor



Superintendent



Chief of Police


Approved as to Form:

City Attorney

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: October 25, 2010

AGENDA ITEM: Janitorial Services Contract Extension	
PREPARED BY: Tonya Miranda, Admin Services Manager	DIRECTOR APPROVAL: 
DEPARTMENT: Public Works	
ATTACHMENTS: <ul style="list-style-type: none">• Amendment No. 1 to Janitorial Services Contract	
BUDGET CODE: Various Buildings	AMOUNT: \$57,936.79

SUMMARY:

Last year, the contract for janitorial services was bid and awarded to Advantage Building Services in the amount of \$57,936.79 for the term of 10/1/2009 to 9/30/2010. The contract can be renewed for up to nine additional years upon agreement of the State Office of Procurement, City of Marysville, and Advantage Building Services. We propose extending the contract for an additional 12 months subject to existing prices, terms, conditions, and specifications.

RECOMMENDED ACTION: Staff recommends that Council Authorize the Mayor to sign Amendment No. 1 to the Janitorial Services Contract between the City of Marysville and Advantage Building Services in the amount of \$57,936.79.

**AMENDMENT NO. 1 TO JANITORIAL SERVICES CONTRACT
BETWEEN
THE CITY OF MARYSVILLE
AND
ADVANTAGE BUILDING SERVICES**

The City and Advantage Building Services agree to extend the Contract for a second annual term.

1. The Contract will be extended for a second annual term beginning October 1, 2010 and will end September 30, 2011.
2. All terms, conditions and provisions of the Contract remain in full force and effect except as expressly modified by this Amendment.

IN WITNESS WHEREOF, the parties have executed this contract Amendment No. 1 by their duly authorized representatives to be effective the day and the year first above written.

Attest:

CITY OF MARYSVILLE

City Clerk

Mayor

Approved as to form:

CONTRACTOR
ADVANTAGE BUILDING SERVICES

City Attorney

By _____
Its _____


Address: _____

Telephone: _____

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: October 25, 2010

AGENDA ITEM: 2011 Everett Animal Shelter Interlocal Agreement	
PREPARED BY: Robb Lamoureux, Commander	DIRECTOR APPROVAL: Chief Rick Smith 
DEPARTMENT: Police	
ATTACHMENTS: Agreement Regarding Animal Shelter Use Between The Cities Of Everett and Marysville	
BUDGET CODE:	AMOUNT:

SUMMARY:

The current Interlocal Agreement for animal shelter use between the City of Marysville and City of Everett will expire on December 31, 2010. This renewal agreement will become effective January 01, 2011.

While there are no changes in the services that will be provided by the Everett Animal Shelter, there are two notable changes in this new Interlocal Agreement.

1. There will be a decrease in the per animal in-take fee from \$164 to \$155.
2. After an initial term ending December 31, 2011, the agreement will be automatically renewed for additional one-year terms, subject to the right of either party to terminate on sixty days notice. (The previous agreement covered a four-year term)

This agreement has been reviewed and approved as to form by the City Attorney's office

RECOMMENDED ACTION: Staff recommends that Council Authorize the Mayor to sign the 2011 Interlocal Agreement for animal shelter use between the City of Marysville and City of Everett.



Animal Services

September 24, 2010

Honorable Jon Nehring
Mayor, City of Marysville
1049 State Avenue
Marysville, WA 98270

RECEIVED

SEP 28 2010

CITY OF MARYSVILLE
EXECUTIVE DEPARTMENT

Re: **Animal Shelter Interlocal Agreement**

Dear Mayor Nehring:

Your existing agreement with the City of Everett for animal shelter services expires on December 31, 2010. A new interlocal agreement for the City of Everett animal shelter services, effective January 1, 2011, is enclosed and includes the following changes:

- A decrease in the per animal in-take fee from \$164 to \$155 made possible through several cost cutting measures.
- After an initial term ending December 31, 2011, the agreement will be automatically renewed for additional one-year terms, subject to the right of either party to terminate on sixty days notice.

As provided for by our existing agreement, this letter will serve as notice of the City's intent to terminate our current agreement. Please sign both copies of the new agreement and return them to the City Clerk, City of Everett, 2930 Wetmore Ave., Everett, WA 98201. I will return an original to you after it has been fully executed.

If you have questions, please contact me at 425 257-7102, or Shannon Delgado, Assistant Director of the Everett Animal Shelter, at Office – (425) 257-6013, Fax – (425) 257-6018 or email – sdelgado@ci.everett.wa.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah Wright", is written over a faint, circular official stamp.

Deborah Wright
Executive Administrator

**AGREEMENT REGARDING ANIMAL SHELTER USE BETWEEN
THE CITIES OF EVERETT AND MARYSVILLE**

This Agreement is made by and between the City of Everett, a municipal corporation of the State of Washington (hereinafter "Everett"), and the City of Marysville, a municipal corporation of the State of Washington (hereinafter "Marysville").

WHEREAS, Marysville regulates animals pursuant to its municipal code; and

WHEREAS, Marysville does not have facilities to shelter, care for, and dispose of animals as specified in its municipal code; and

WHEREAS, RCW 39.34.010 and 39.34.080 authorize the parties to contract for the performance of government services such as animal shelter services; and

WHEREAS, Everett is agreeable to rendering such services on the terms and conditions set forth below;

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

I. SCOPE OF SERVICES

A. Everett shall provide the services described herein for animals, found or living in Marysville, delivered to Everett's Animal Shelter. In consideration of Everett providing such services, Marysville agrees to comply with the provisions of this Agreement.

B. For purposes of this Agreement, the term "animals" shall refer to any member of the classes reptile, bird, or mammal, except man.

C. Animal shelter services shall include:

1. Sheltering and holding animals at facilities operated by Everett, provided that capacity is available at the time of delivery.

2. Releasing animals to owners.

3. Disposing of animals, including adoption or destruction of animals not claimed by an owner, in accordance with Marysville's Municipal Code and the terms of this Agreement.

4. Disposing of dead animals.

D. Everett reserves the right to refuse acceptance of any animal, where, in the opinion of the shelter staff, it does not have facilities, capacity or expertise appropriate or available to accommodate the needs of such animal. Prior to a Marysville officer or

designee dropping off an animal to the Everett Animal Shelter, any apparent veterinary care shall have been provided by Marysville. In the event an animal is deposited at the Everett Animal Shelter by a Marysville officer or designee and it is determined that urgent veterinary care should have been provided, Marysville agrees to pay and will be billed for the cost of veterinary care incurred by Everett, plus an additional fee of \$200 for each incident.

E. Everett agrees to provide animal shelter services for animals delivered for the following periods:

1. Seventy-two (72) hours from the hour of delivery if the animal is not licensed and has no known owner.

2. Ten (10) days from the date of delivery if the animal is licensed or has a known owner. An additional Fifteen Dollars (\$15.00) per day per animal charge will be assessed to Marysville for animals held at Marysville's request longer than the above time periods.

F. The shelter staff will, during the period provided in paragraph I.E, deliver the animal to any person who claims to be and has evidence of the ownership of said animal.

G. An animal may not be released until all administrative, impound, and board fees, as established jointly by Marysville and Everett, have been paid by the person seeking release of the animal. Said fees, pursuant to the terms of this Agreement, shall become the property of Everett.

H. Animals that have bitten people will be quarantined for a period of ten (10) days and then destroyed or returned to their owner at the discretion of Marysville. Quarantined animals shall not be released until all quarantine fees related to the animal are paid by Marysville. Marysville and Everett shall jointly establish quarantine fees.

I. Marysville agrees to furnish Everett copies of all provisions of its Municipal Code and regulations affecting Everett's performance under this Agreement and shall notify Everett at least thirty (30) days prior to the effective date of any amendment or revision.

J. Everett will pay all costs incurred in providing animal shelter services under this Agreement except as otherwise provided by this Agreement.

K. Everett shall have the authority to sell or dispose of animals after the period provided in paragraph I.E if not claimed as provided in paragraph I.F. The proceeds of such sale shall belong to Everett. Any such sale or disposition by Everett shall be in accordance with all applicable state statutes and administrative codes.

L. Everett shall not sell or donate any animal for the purpose of scientific research or testing.

II. TERM

The initial term of this Agreement is one year, beginning January 1, 2011 and ending December 31, 2011. This Agreement will continue for the initial term and will be automatically renewed for additional one-year terms, subject to the right of either party to terminate this agreement on sixty (60) days notice in accordance with Section IV below.

III. FINANCIAL

A. Marysville agrees to pay Everett, within thirty (30) days of receipt of an invoice or statement from Everett, all fees incurred pursuant to this Agreement including an administrative fee in the sum One Hundred and Fifty-Five (\$155.00) per animal impounded for maintenance and operation costs.

B. Everett may adjust the fee charged per animal on an annual basis to be effective on January 1 of each calendar year. If Everett intends to adjust said fee, it will give Marysville at least ninety (90) days written notice of its intent to do so.

C. Everett must maintain adequate records to support billings for a period of five (5) years after completion of this Agreement by Everett. Marysville or any of its duly authorized representatives shall have access to any books, documents, papers and records of Everett which are directly related to this Agreement for the purposes of audit examinations.

IV. TERMINATION

Either party may terminate this Agreement by sixty (60) days' written notice to the other party.

V. INDEMNIFICATION

A. Each party agrees to defend and indemnify the other party from any and all claims arising out of, in connection with, or incident to its conduct relating to this Agreement. A party shall not indemnify the other party for the other party's sole negligence. If a claim is caused by or results from the conduct of both parties, each party shall be responsible to the extent of its fault.

B. As used in this paragraph, "claims" include, but are not limited to, any and all losses, claims, demands, expenses (including, but not limited to, attorney's fees and litigation expenses), suits, judgments, or damages, irrespective of the type of relief sought or demanded, such as money or injunctive relief, and irrespective of whether the damage alleged is bodily injury, damage to property, economic loss, general damages, special damages, or punitive damages. "Party" includes Everett, Marysville, and their employees, officers, representatives, and elected officials.

VI. MISCELLANEOUS

A. Notice Addresses. Any statement, notice, request or other communication hereunder shall be deemed to be sufficiently given to the addressee and any delivery hereunder deemed made when sent by certified mail addressed to the following addresses:

Notices to Everett shall be sent to the following address:

City of Everett
Attn: Deborah Wright
2930 Wetmore Avenue
Everett, WA 98201

Notices to Marysville shall be sent to the following address:

City of Marysville
Attn.: Mayor Jon Nehring
1049 State Avenue
Marysville, WA 98270

B. Construction. Each party acknowledges that it has read this Agreement, understands it and agrees to be bound by its terms. Each party acknowledges that the Agreement should not be strictly construed against one party or the other, but interpreted reasonably and fairly so as to give effect to the manifest intentions of the parties.

C. Modification. This Agreement may not be modified except by a written instrument duly executed by the parties hereto.

D. Severability. In the event that any provision of this Agreement is held invalid, void, illegal or unenforceable, the remainder of this Agreement shall not be impaired or affected thereby, and each term, provision, and part shall continue in full force and effect and shall be interpreted in a manner consistent with the intent of the parties.

E. Headings for Convenience. The section and subsection headings used herein are for convenience only, and shall not be used to interpret the Agreement.

F. Assignment Barred. Neither party may assign its rights or duties under this Agreement without the prior written consent of the other party

G. Complete Agreement. This Agreement contains the complete and integrated understanding and agreement between the parties and supersedes any understanding, Agreement or negotiation whether oral or written not set forth herein.

H. Governing Law and Venue. The laws of the State of Washington shall govern this Agreement. Any lawsuit regarding this Agreement must be brought in the Superior Court of Snohomish County, Washington.

I. Relationship of Parties. Everett and Marysville shall not be construed as joint ventures or general partners, and neither shall have the power to bind or obligate the other party.

J. No Third Party Rights. The provisions of this Agreement are intended solely for the benefit of, and may only be enforced by, the parties hereto. None of the rights or obligations of the parties herein set forth is intended to confer any claim, cause of action, remedy, defense, legal justification, indemnity, contribution claim, set-off, or other right whatsoever upon or for the benefit of any third party. This Agreement does not create any legal duty by any of the parties, except such contractual duties between them as explicitly stated in the Agreement.

VII. EFFECTIVE DATE

When duly executed by both parties, this Agreement shall be effective as of January 1, 2011.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized officers and representatives as of the day indicated below.

**CITY OF EVERETT,
WASHINGTON**

**CITY OF MARYSVILLE,
WASHINGTON**

By: _____
Ray Stephanson, Mayor
Date: _____

By: _____
Jon Nehring, Mayor
Date: _____

Approved as to form:

James D. Iles
City Attorney

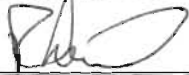
ATTEST:

Sharon Marks, City Clerk

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: October 25, 2010

AGENDA ITEM: Modify the language in MMC 10.04.150	AGENDA SECTION:	
PREPARED BY: Chief Richard Smith	APPROVED BY: 	
ATTACHMENTS: MMC 10.04.150		
	MAYOR	CAO
BUDGET CODE: Revenue	AMOUNT:	

DESCRIPTION:

The purpose of this Agenda Bill is to modify the current MMC 10.04.150 allowing for the billing of animals that are surrendered to the Everett Animal Shelter by Marysville residents.

The Shelter will collect the fee and not pass it to the City of Marysville. Per the MMC the amount charged will equal that amount billed to the City of Marysville by the City of Everett.(per the current language)

Recommended language change: add to 10.04.150, Section (M) “ or authorized animal shelter” following the word ‘officer’, in the first sentence as drafted in the proposed change.

RECOMMENDED ACTION: Council adopts the recommended change.
COUNCIL ACTION:



MARYSVILLE POLICE DEPARTMENT

Richard L. Smith, Chief of Police



TO: Chief Smith
FROM: Marm
DATE: 09/13/10
RE: Animal Shelter

The attached memo was written following a conversation with Everett Animal Shelter Director Bud Wessman. The purpose of the meeting was to discuss options in recuperating some of the fees that are charged by the shelter for animals being dropped off as strays, or surrenders.

The outcome of that meeting was that in March of 2010, the EAS started charging the people that came to pick up their animals the full rate of 164.00. To date appx. 15 people have paid to pick up their animals. That equals \$2,460.00. If an owner refuses or can't pay, the EAS will release the animal and bill us accordingly.

**Also discussed was the process needed to charge people for dropping off personal animals that are surrenders. These animals account for appx. half of all animals that are received at the shelter. All that is required of Marysville Police is to present the EAS with a copy of the updated M.M.C. that Grant Weed has already approved. (That document is on your desk waiting Council approval) The EAS will post the information on their website and post notices advising the public that all surrenders will be billed at the contract rate (which is currently \$164.00 per animal). Should someone not be able to pay and the animal is at risk of being released in the wild, the EAS will take the animal and bill the City to protect the animal.

Our current bills are appx. 10-14K every month. There are an average of 80 animals taken to the EAS every month, half of which are surrenders and the other half strays. **Officer Vasconi has only taken 26 animals to the shelter for the year to date of July 31st out of the 411 animals** that have been taken to the EAS.

Our yearly bill in 2006 was 34,839.00 with the EAS rate being \$80.00 per animal, for 435 animals.

Our yearly bill in 2009 was 81,198.00 with the EAS rate being 145.00 per animal, for 560 animals.

Our bill year to date (as of July 31st) is 67,404.00 at the EAS rate being 164.00 per animal for 411 animals, so far. With the Annexation that occurred, it appears that we may double our number of animals to the shelter, which could put our yearly bill at appx. 126,000.00 if we do not make a change to our policy.

1635 Grove Street, Marysville, Washington 98270
360-363-8300



MARYSVILLE POLICE DEPARTMENT

Richard L. Smith, Chief of Police



TO: Chief Smith
 FROM: Margaret
 DATE: 01/29/10
 RE: Animal Shelter

This memo is a recap of the information received from Bud Wessman, Everett Animal Shelter, Director. Lt. Jeff Goldman, CSO Dave Vasconi, and I met with Mr. Wessman on 01/28/10 to discuss the possibilities for the City of Marysville to reduce their yearly costs associated with the Everett Shelter.

It must be stated clearly that Everett Animal Shelter is an “Open Shelter”, which means that it will take all animals (appropriate for the Shelter) with their priority being the welfare of the animal. Among the other cities that contract with the Shelter, Marysville is the third largest contributor of animals to the Everett Animal Shelter. The equation that the Shelter uses was described as, the following: Shelter fees, Staff only costs, and adoption fees/ revenue are each totaled and divided equally between the contracting cities. This explains why the cost fluctuates from year to year.

At this time, for 2010, the cost of any billable animal being brought to the shelter is \$145.00. The following contracting cities collect the following fee amounts:

- Everett = \$15.00
- Snohomish County = \$140.00
- Lake Stevens = Full Cost
- Mill Creek = No longer uses EAS, they go to PAWS
- Snohomish = 45.00

All funds are collected at the time of surrender. If there are arguments, the citizens are told to contact the City they live in to discuss the fees. It was stated that all cities collect 100% of the fees charged, with the exception of Lake Stevens. Lake Stevens is left to bill for approximately 5% of their citizen drop offs, for example if 50 animals, the Police would be billing appx. people 2-3 people per month. Not excessive.

Mr. Wessman stated when the City of Marysville provides him the MMC regarding the fee charged to the citizens, the Shelter staff will do all they can to collect whatever fee the City dictates. This information will also be posted on the Everett Animal Shelter website. The citizens that refuse to pay and may possibly “dump” their animals will be noted on the billing and the Marysville Police Department will bill those citizens. We will only be billed for animals in which the fee is not collected. All citizen information is verified with I.D. (when possible) and indicated on the monthly bill. A suggestion is we might want to advertise this new practice via TV media and newsprint circulation prior to 03/01/2010.

It is the suggestion of this memo that for consistency, the citizens should be billed the full amount that the Shelter charges us. Should the rates vary, the variation will be passed on to the citizens. I propose that this process will save the City of Marysville upwards of \$70,000 per year. (with the new annexed area owner surrenders incorporated to the \$70K figure) In addition, it will save manhours due to the public awareness that they will be charged, therefore, they should be keeping their animals contained or

1635 Grove Street, Marysville, Washington 98270
 360-363-8300



MARYSVILLE POLICE DEPARTMENT

Richard L. Smith, Chief of Police



controlled. There will be less loose animals in the streets of Marysville, there should also be less leash law violations, both freeing up the CSO to perform other duties, as needed.

- **In 2009, there were:**
- **686 animals taken to the Everett Animal Shelter by (pre-annexed) Marysville citizens.**
- **93 were not billed to the City of Marysville.**
- **321 were owner Surrenders, at 145.00 each, this would be \$46,545.00**
- **313 were strays, at 145.00 each, this would be \$45,385.00**
- **41 animals were seized.**
- **25 were animals that the CSO officer took to the Everett Animal Shelter**
- **9 animals (not billed) were returned adoptions.**

Mr. Wessman did indicate that there were two other actions that the City of Marysville could take to help decrease in the amount of money paid to the Shelter.

****One** suggestion is to utilize the Everett Animal Shelter's Command Bus which is available to bring animals for adoption to an event, (such as Strawberry Fest, Poocha Poloosa, etc) which will heighten interest and awareness regarding animal adoptions. The more successful adoptions, the lower the per animal fee will be for the cities. This can be done multiple times throughout the year.

****Second** suggestion is to have "No cost spay and neuter clinics" held at different locations in the city of Marysville. Again, educating and bring awareness to the citizens of Marysville, thus increasing adoptions, and lowering the per animal fee passed on to the contracting cities.

****Third** suggestion that the Everett Animal Shelter is working on is contracting for "Billable Animals" from other jurisdictions, such as King County, Bellevue, etc. Again, the more adoptions, of billable animals, the lower the costs being passed on to other contract cities.

Finally, Mr. Wessman said that in 2009 the EAS received thousands of dollars in donations to help care for the "Puppy Mill" animals. This donation will be considered revenue for the 2011 Budget year and will be factored into the costs which could result in a decrease of the current amount charged.

Please see the attached MMC established in 1995 and renewed in 2005 permitting the City to bill citizens for impounded animals.

1635 Grove Street, Marysville, Washington 98270
360-363-8300



MARYSVILLE POLICE DEPARTMENT

Richard L. Smith, Chief of Police



04/05/2010

Mr/Ms. _____

Address

Marysville, WA 98270

As of 10-31-2010, the City of Marysville is billing citizens that surrender their pets to the Everett Animal Shelter. Per the 2010 contract with the Everett Animal Shelter the fee is \$164.00 per animal, (or \$164.00 per litter).

The Everett Animal Shelter records indicate that in the month of November you surrendered _____ pets.

Please submit the amount of \$ _____, payable upon receipt of this invoice.

Please remit your payment payable to City of Marysville to:

City of Marysville
Accounts Receivable
1049 State Avenue
Marysville, WA 98270

If you have any questions, you may contact Margaret at 360-363-8308.

Sincerely,

RICHARD L. SMITH
Chief of Police

RLS/ mmv

1635 Grove Street, Marysville, Washington 98270
360-363-8300

CITY OF MARYSVILLE
Marysville, Washington

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF MARYSVILLE AMENDING SECTION 10.04.150
OF THE MARYSVILLE MUNICIPAL CODE, RELATING TO FEES FOR
VOLUNTARILY SURRENDERED ANIMALS AND EFFECTIVE DATE.**

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE,
WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. Section 10.04.150 of the Marysville Municipal Code is hereby amended to read as follows:

10.04.150 Dogs and cats – Impoundment – Redemption – Fees.

(1) The animal control officer of the city may impound dogs and cats which fall in one or more of the following categories:

- (a) Those dogs or cats which are not licensed pursuant to this chapter;
- (b) Those dogs or cats which do not exhibit the identification tag required by this chapter;
- (c) Stray animals as defined by this chapter;
- (d) Biting dogs or cats as defined by this chapter;
- (e) Vicious dogs as defined by this chapter;
- (f) Dogs or cats in heat which are running at large;
- (g) Noisy dogs and cats as defined by this chapter;
- (h) Trespassing dogs and cats as defined by this chapter;
- (i) Dogs or cats running in packs;
- (j) Chasing or intimidating dogs or cats as defined in this chapter;
- (k) Dogs or cats habitually running at large in violation of this chapter;
- (l) Dogs and cats which are declared public nuisances but which have not been abated pursuant to this notice;
- (m) Dogs and cats which are voluntarily surrendered to the animal control officer, or authorized animal shelter, by any person who purports to be the owner of the same, or by any person who declares that the animals are stray animals as defined by this chapter.

(2) The animal control officer shall use his best efforts to notify the owner of the animal impounded pursuant to this section. The owner shall be responsible for paying the financial obligations below:

- (a) The impound recovery fee assessed to the city by the Everett animal shelter or other applicable agency, if the owner has not already reimbursed the city for said fee; and

- (b) The sum equal to the current rate charged the city by the applicable agency for room and board during the period of impoundment; and
 - (c) The appropriate license fee if the animal has not been previously licensed; and
 - (d) Any and all delinquent court fines with respect to the animal.
- If an animal is sold pursuant to this chapter, the net proceeds from the sale shall offset the accrued obligation of the animal's owner with the exception of delinquent court fines. (Ord. 2600 § 1, 2005; Ord. 2404 § 1, 2002; Ord. 2013 § 15, 1995).

SECTION 2. This ordinance shall take effect on October __, 2010.

PASSED by the City Council and APPROVED by the Mayor this _____ day of October, 2010.

CITY OF MARYSVILLE

By _____
JON NEHRING, MAYOR

Attest:

By _____
TRACY JEFFRIES, CITY CLERK

Approved as to from:

By  _____
GRANT K. WEED, CITY ATTORNEY

Date of publication: _____
Effective Date : _____ October __, 2010

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: October 25, 2010

AGENDA ITEM: Planning Commission Recommendation - Mobile/Manufactured Home Park Draft Code Revisions	AGENDA SECTION: New Business	
PREPARED BY: Cheryl Dungan, Planning Manager – Land Use	APPROVED BY:	
ATTACHMENTS: <ol style="list-style-type: none"> 1. Planning Commission Recommendation 2. PC Minutes 03/23/10; 04/13/10; 05/11/10; and 05/25/10 & 06/22/10 3. Staff Report 4. MHP Map 5. Attorney General’s Memorandum on Takings 6. Draft Ordinance 	MAYOR	CAO
	AMOUNT:	
BUDGET CODE:		

DESCRIPTION:

The Planning Commission’s Recommendation for the Mobile/Manufactured Home Park (MHP) code revisions establish a new Residential-Mobile/Manufactured Home Park (R-MHP) zone that is designed to protect existing MHPs that contain rental pads as opposed to fee simple owned lots within residential zones. The revisions also establish permitted and conditional uses within the new zone. Additionally the revisions reflect a recent change in State law which permits recreational vehicles to be utilized as a primary residence within MHPs

The PC held a public hearing on June 22, 2010 to review the DRAFT MHP Code revisions and received testimony from park residents, the park resident’s attorney; the park owner’s attorney and other interested parties. The PC recommended approval of the attached MHP code revisions to MMC Chapter(s) 19.04; 19.08; and 19.38.

RECOMMENDED ACTION: Affirm the PCs recommendation adopting the proposed Mobile/Manufactured Home Park revisions to MMC Chapter(s) 19.04; 19.08; and 19.38.
COUNCIL ACTION:



COMMUNITY DEVELOPMENT DEPARTMENT
80 Columbia Avenue ♦ Marysville, WA 98270
(360) 363-8100 ♦ (360) 651-5099 FAX

PC Recommendation – MHP Zone Creation/Code Amendments

The Planning Commission (PC) of the City of Marysville, having held a public hearing to review the following NON-PROJECT action code revision(s) to: MMC Chapter 19.04 *Zones, Maps and Designations* creating a new Residential - Mobile/Manufacture Mobile Home Park Zone (R-MHP); MMC Chapter 19.08 *Permitted Uses* establishing permitted uses within the new R-MHP zone); and MMC Chapter 19.38 *Development Standards – Mobile Home Parks* removing the MHP use within the Rural Use and General Commercial zoning classifications consistent with the *City of Marysville 2005 Comprehensive Plan* and allowing recreational vehicles to be located within MHPs consistent with RCW 35A.21.312(3) and three public workshops held on April 13, 2010, May 11, 2010, and May 25, 2010 and having considered the exhibits and testimony presented does hereby enter the following findings, conclusions and recommendation for consideration by the Marysville City Council:

Findings:

1. The PC attended a field trip to MHPs within the city limits on March 23, 2010; three (3) public work sessions to review the NON-PROJECT code revisions to Chapter(s) 19.04; 19.08; and 19.38 of the MMC were held on April 13, 2010; May 11, 2010; and May 25, 2010.
2. Addendum #18 to the Determination of Significance Adoption and Addendum of Existing Environmental Document was issued on July 8th, 2010 which addresses the environmental impacts of the NON-PROJECT action code revisions in accordance with WAC 197-11-630.
3. Community Development Staff submitted the NON-PROJECT action code revisions to the Washington State Department of Commerce for 30-day expedited review of development regulation amendments in accordance with RCW 36.70A.106. No comments were received from State Agencies.
4. The PC held a duly-advertised public hearing on June 22, 2010 and received testimony from city staff, the general public, and two attorneys - one representing the park owners, the other representing the park residents. Eight persons spoke in favor of the proposed code revisions, one person spoke against the proposed code revisions. Several persons who spoke in favor wanted the code revisions to apply to all MHPs within the city, not just those located within residential zones.

CONCLUSIONS:

At the public hearing, held on June 22, 2010, the PC recommended adoption of the NON-PROJECT Alternative 2 code revisions as reflected in the PC minutes attached hereto as **Exhibit A**.

Recommendation:

Forwarded to the City Council as a Recommendation of Approval of the NON-PROJECT action code revisions to MMC Chapter 19.04 *Zones, Maps and Designations* creating a new Residential - Mobile/Manufacture Mobile Home Park Zone (R-MHP); MMC Chapter 19.08 *Permitted Uses* establishing permitted uses within the new R-MHP zone); and MMC Chapter 19.38 *Development Standards – Mobile Home Parks* removing the MHP use within the Rural Use and General Commercial zoning classifications consistent with the *City of Marysville 2005 Comprehensive Plan* and allowing recreational vehicles to be located within MHPs consistent with RCW 35A.21.312(3) by the City of Marysville Planning Commission this 30th day of September, 2010.

By: 
Stephen Muller, Planning Commission Chair

PC Recommended - Zoning/Regulatory Alternative

Below in strikeout/underline format are the code modifications that need to be made to establish the zone in the code and allow for its application:

19.04.020 Zones and map designations established.

In order to accomplish the purposes of this title, the following zoning designations and zoning map symbols are established:

ZONING DESIGNATIONS	MAP SYMBOL
Residential	R (base density in dwellings per acre) <u>R-MHP</u>

19.04.080 Residential zone.

(1) The purpose of the residential zone (R) is to implement comprehensive plan goals and policies for housing quality, diversity and affordability, and to efficiently use residential land, public services and energy. These purposes are accomplished by:

(a) Providing, in the R-4.5, R-6.5, and R-8 zones, for a mix of predominantly single detached dwelling units and other development types, with a variety of densities and sizes in locations appropriate for urban densities;

(b) Providing, in the R-12, R-18, and R-28 zones, for a mix of predominantly apartment and townhome dwelling units and other development types, with a variety of densities and sizes in locations appropriate for urban densities;

(c) Providing and preserving high density, affordable detached single-family and senior housing. This zone is assigned to existing mobile home parks within residential zones which contain rental pads, as opposed to fee simple owned lots, and as such are more susceptible to future development.

(ed) Allowing only those accessory and complementary nonresidential uses that are compatible with residential communities; and

(ee) Establishing density designations to facilitate advanced area-wide planning for public facilities and services, and to protect environmentally sensitive sites from overdevelopment.

19.08.030 Residential land uses.

(1) Table.

Specific Land Use				
	R 4.5- 8	R 12- 28	GC	<u>R- MHP</u>
Dwelling Units, Types:				
Single detached (22)	P18	P18		<u>P24</u>
Mobile home	P19, <u>C3</u>	P19	P19	<u>P19</u>
Mobile/ <u>Manufactured</u> home park	<u>P3</u>	C14, P	<u>P</u>	<u>P26</u>
Senior citizen assisted	C2	C2		<u>C2</u>
Factory-built	P10	P10		<u>P10,24</u>
<u>Recreational Vehicle</u>				<u>P25</u>
Group Residences:				
Adult family home	P	P	P	<u>P</u>
Master planned senior community (23)	C	C	C	<u>C</u>
Accessory Uses:				
Residential accessory uses (1) (12) (16)	P	P		<u>P</u>
Home occupation (5)	P	P20	P20, P21	<u>P</u>

(2) Development Conditions.

1. Accessory dwelling units must comply with development standards in MMC 19.34.030, Accessory dwelling unit standards. Accessory dwelling units in the MHP zone are only allowed on single lots of record containing one single-family detached dwelling.
2. Limited to three residents per the equivalent of each minimum lot size or dwelling units per acre allowed in the zone in which it is located.
3. Only as part of a PRD development proposal and subject to the same density as the underlying zone.
18. Manufactured Homes must
 - a. Be no more than five years old, as evidenced by the date of the manufacture recorded on the HUD data plate;
 - b. Be set on a permanent foundation, as specified by the manufacturer, enclosed with an approved concrete from the bottom of the home to the ground which may be either load-bearing or decorative;
 - c. Meet all design standards applicable to all other single-family homes in the neighborhood in which the manufactured home is to be located
19. Mobile homes are only allowed in existing mobile home parks established prior to October 16, 2006.
24. One single-family detached dwelling per existing single lot of record. Manufactured Homes on single lots must meet the criteria outlined in footnote 18 above.
25. Used as a permanent residence in an established MHP or RV park provided that utility hook ups in MHPs meet current standards for MHPs or RV parks.
26. MHPs shall fulfill the requirements of Chapter 19.38 MMC.

19.08.040 Recreation/cultural land uses.

(1) Table.

Specific Land Use	
	R-MHP
Park/Recreation:	
Park	P1
Recreational vehicle park	C2
Community center	C
Cultural:	
Library, museum and art gallery	C
Church, synagogue and temple	C

2) Development Conditions.

1. The following conditions and limitations shall apply, where appropriate:

a. Parks are permitted in residential and mixed use zones when reviewed as part of a subdivision, **mobile/manufactured home park**, or multiple-family development proposal; otherwise a conditional use permit is required;

b. Lighting for structures and fields shall be directed away from residential areas; and

c. Structures or service yards shall maintain a minimum distance of 50 feet from property lines adjoining residential zones.

2. Recreational vehicle parks are subject to the requirements and conditions of Chapter **19.40** MMC

19.08.050 General services land uses.

(1) Table.

(2) Development Conditions.

Specific Land Use	
	R-MHP
Personal Services:	
Funeral home/crematory	C1
Cemetery, columbarium or mausoleum	P10 C2
Day care I	P3
Day care II	C16
Education Services:	
Elementary, middle/junior high, and senior high (including public, private and parochial)	C

1. Only as an accessory to a cemetery.

2. Structures shall maintain a minimum distance of 100 feet from property lines adjoining residential zones.

3. Only as an accessory to residential use and subject to the criteria set forth in MMC **19.32.030**.

10. Limited to columbariums accessory to a church; provided, that existing required landscaping and parking are not reduced.

16. Daycare IIs must be located on sites larger than 0.5 acres and are subject to minimum standards identified in MMC **19.32.030** for Daycare I facilities.

Parking facilities and loading areas shall be located to the rear of buildings or be constructed in a manner consistent with the surrounding residential character.

Evaluation of site suitability shall be reviewed through the conditional use permit process

19.08.060 Government/business service land uses.

(1) Table.

Specific Land Use	
	R-MHP
Government Services:	
Public safety facilities, including police and fire	C1
Utility facility	P
Private stormwater management facility	P
Public stormwater management facility	P
Business Services:	
Wireless communication facility (5)	P,C

(2) Development Conditions.

1. a. All buildings and structures shall maintain a minimum distance of 20 feet from property lines adjoining residential zones;
- b. Any buildings from which fire-fighting equipment emerges onto a street shall maintain a distance of 35 feet from such street.

19.08.100 Regional land uses.

(1) Table.

Specific Land Use	
	R-MHP
Regional storm water management facility	C
Nonhydroelectric generation facility	C

19.38.030 Mobile/manufactured home park zone.

There is created a mobile/manufactured home park zone (MHP) which shall be construed as an overlay classification which may be enacted for any area within the city zoned in the multiple-family residential classification (R-12-R-28), or planned residential development classification (PRD 4.5-PRD 8), ~~rural-use classification with a conditional use permit, or the general commercial classification.~~

(1) Purpose. The purposes of the MHP classification are:

- (a) To provide a suitable living environment within a park-like atmosphere for persons residing in mobile/manufactured homes;
- (b) To encourage variety in housing styles within areas designated for other residential development;

(c) To permit flexibility in the placement of mobile/manufactured homes on a site in order to minimize costs associated with development of roads, utilities, walkways and parking facilities, while providing adequate common and private open space.

(2) Permitted Uses. In the MHP zone the following uses are permitted:

(a) Mobile/manufactured home parks, subject to the requirements of this chapter;

(b) Mobile/manufactured homes, located only within an approved mobile/manufactured home park;

(c) Accessory uses and structures as provided in MMC 19.08.030(1);

(d) Recreational facilities located within and primarily for the use of residents of an approved mobile/manufactured home park;

(e) Recreational vehicle and boat storage facilities located within and limited to use by residents of an approved mobile/manufactured home park. (Ord. 2131, 1997).

19.38.150 Standards for existing parks.

(1) Mobile home parks established prior to the effective date of this code shall continue to be governed by all standards relating to density, setbacks, landscaping and off-street parking in effect at the time they were approved;

(2) Placement of new accessory structures and replacement mobile homes, either standard or nonstandard, in these mobile home parks shall be governed by the dimensional standards in effect when the parks were approved. Where internal setbacks are not specified, the setback standards outlined in the Uniform-International Building Code (UIBC) and the Uniform-International Fire Code (UIFC) shall apply;

(3) ~~No spaces or pads in an existing mobile home park shall be used to accommodate recreational vehicles (RVs), except when the spaces or pads were approved for RVs at the time the park was established;~~ Recreational vehicles utilized as a permanent residence are permitted provided utility hook-ups are provided and meet current adopted standards for mobile/manufactured home parks.

(4) An existing mobile home park may be enlarged; provided, the proposed enlargement meets the standards set forth in MMC 19.38.050 through 19.38.070;

(5) Insignia mobile homes may be installed in established parks; provided, that all mobile homes supported by piers shall be fully skirted;

(6) The placement of new accessory structures and replacement mobile homes shall comply with Chapter 19.24 MMC, Sensitive Areas Management.



MARYSVILLE PLANNING COMMISSION

June 22, 2010

7:00 p.m.

City Hall

CALL TO ORDER

Chairman Muller called the June 22, 2010 meeting of the Marysville Planning Commission to order at 7:08 p.m. noting the excused absence of Eric Emery. The following staff and commissioners were present:

Chairman: Steve Muller

Commissioners: Jerry Andes, Steve Leifer, Becky Foster, Deirdre Kvangnes, Michael Stevens

Staff: Planning Manager-Land Use Cheryl Dungan, Chief Administrative Officer Gloria Hirashima, Community Information Officer Doug Buell, Recording Secretary Amy Hess

Absent: Eric Emery

APPROVAL OF MINUTES:

May 25, 2010

Motion made by Commissioner Kvangnes, seconded by Commissioner Foster to approve the May 25, 2010 meeting minutes as presented. Motion carries, (6-0).

PUBLIC HEARING:

Mobile/Manufactured Home Park Preservation Alternatives

Ms. Dungan affirmed that the meeting had been advertised per Marysville Municipal Code. Chair Muller explained the format of the meeting and that Planning Commission was an advisory committee, not a decision making committee, and would forward their recommendation on to City Council. Chair Muller turned over the meeting to Ms. Dungan.

Ms. Dungan discussed the phone calls she had received from concerned citizens and residents and wanted to assure everyone that there were no imminent closures at this time. She began a Power Point Presentation which overviewed the background of Mobile Home Parks in Washington, the Marysville Comprehensive Plan, current zoning for existing parks in Marysville, and research conducted by Staff during this process. She then overviewed

**ORIGINAL
EXHIBIT**

the details of the four alternatives that were being proposed. Each individual park was discussed, including size, current zoning, density, age designation, and staff recommendation.

PUBLIC HEARING:

Chair Muller opened the meeting for public testimony.

Walt Olsen 200 S. Meridian, Puyallup WA 98371

Mr. Olsen introduced himself as an attorney for multiple mobile home parks. He stated that he represented over 200 Mobile Home Parks and gave background of the organization he represents. Mr. Olsen added that he had provided the Planning Commission with information regarding pending litigation currently in process regarding the Tumwater Mobile Home Park ordinance. He felt that the current status of that litigation was very important to the current situation facing the Planning Commission. He explained why he felt this issue should be put on hold until other litigation could be settled. Mr. Olsen stated that he felt that in the current economically stressful situation, this issue would be better tabled for at least a year until the Ninth Circuit ruled on current litigation. In closing, Mr. Olsen stated that it was unfair to the landowners and unnecessary for at least 7 to 10 years based on the 4300 vacant single family lots that would most likely be purchased before a Mobile Home Park would need to be redeveloped.

Commissioner Leifer questioned the Tumwater litigation adding that that issue seemed to be a single use issue and that Marysville had two recommendations that went way beyond the single use. Commissioner Leifer wanted to know if Mr. Olsen felt that the Tumwater litigation would directly relate to Marysville's situation. Mr. Olsen explained why he felt that it would in fact relate as Tumwater had allowed for a single use exception similar to Marysville's proposal.

Mary Tarabochia 3333 228th St. SE, Bothell WA 98021

Ms. Tarabochia wanted to speak on behalf of the residents of Mobile Home Parks. She felt that the parks already fulfill the 50% of development restrictions being proposed. She added that many of these communities provide their own assisted living communities, as community members take care of one another. She felt the Mobile Home Parks should be left alone and intact.

Jo Parkening 4515 176th SW #22, Lynnwood WA 98037

Ms. Parkening stated that she is serving as the president of the Association of Manufactured Home Owners. She stated that these residents are not looking for a handout and are not a drain on state social services and that residents care and look out for one another. She outlined situations where residents helped neighbors with transportation, paperwork, day to day life, as well as in emergency situations. She quoted a study conducted by the National Commission on Affordable Housing which predicted that the senior household population would increase by 53% by 2020. Existing Mobile Home Park inventory should be preserved. Ms. Parkening added that preserving affordable housing was much less costly than destroying it and building new.

Marlene Pence 3715 152nd St NE #24, Marysville WA 98270

Ms. Pence thought that none of the spaces in the 7 existing parks were being preserved under the proposed Mobile Home Park Zone. She stated that she had looked into SHAG housing and that those rents were more expensive. She did not want to see any change, any rezoning, she wanted the parks to be preserved and protected. Ms. Pence wanted to point out that many of the residents were too old to move or be moved, many suffered from health ailments that would not even allow them to attend tonight's meeting.

Ishbel Dickens

Ms. Dickens stated that she is an attorney with Columbia Legal Services representing AMHO; adding that she was part of the stakeholders meeting mentioned by Ms. Dungan earlier. She discussed the number of households living in Mobile Home Parks in Marysville. She congratulated City Staff on the effort made thus far, but felt that City Staff had not gone far enough. Proposed Alternative Number Two should be expanded to include all Manufactured Home Parks, Ms. Dickens stated. She wanted to point out that it was within the City's jurisdiction to zone and that the Community owners could always come back and request a rezone in the future. Ms. Dickens discussed the Tumwater Ordinance that had been discussed by Mr. Olsen. She discussed a Snohomish County ordinance that had been passed last October and had not been challenged. City of Bothell had an ordinance in place since the 1960's which had been upheld since then. She discussed Marysville Comp Plan and how preserving existing parks would comply with the Comp Plan.

Commissioner Leifer questioned Ms. Dickens' opinion of how the Federal Court decision would affect the options the City was proposing. He wanted to know that if the ruling was against Tumwater and Marysville had put an ordinance in place where did Ms. Dickens think the City would be. Ms. Dickens responded that she felt the issues were very different and that there was a long to go before the Federal Court made a decision. She again referred to the Snohomish County ordinance that had gone unchallenged for over 6 months and felt that the City would fall in a similar situation with an ordinance that could remain in place unchallenged.

Linda Johnson 5900 64th St. NE #222, Marysville WA 98270

Ms. Johnson had concerns about the issues but wanted to put a personal face on how people end up living in mobile homes. She described her situation where she had moved here 10 years ago during Boeing's boom and were unable to find an apartment available. They did some checking on the mobile home park they now live in, and decided to stay. Ms. Johnson explained the sense of community that exists amongst the Mobile Home Park residents. She stated that she had planned on staying for a short time, but now she and her husband had decided they wanted to stay. Chair Muller asked for clarification on Ms. Johnson's stand on the ordinance. She wanted to see some commitment made for the homeowners. Commissioner Foster questioned the type and term of leases in place. Ms. Johnson responded that there is no lease term; it is a month to month type lease. Commissioner Foster questioned whether a long term lease would be more comforting to homeowners.

Jerry Johnson 5900 64th St. NE #222, Marysville WA 98270

Mr. Johnson felt that the Commission was in a very difficult position. They had land owners on one side and homeowners on the other side. He questioned park owners and how their cash flow had been during this economic decline. He questioned why the owners would mess with the residents they have. Mr. Johnson questioned the homeowners and whether they are maintaining structures that are pleasing to the eye and have curb appeal. Mr. Johnson found it interesting that they were being asked to table something until the economy had a chance to turn around at which point it be become advantageous to the owner to sell the park. He stated that if the owner wants to sell, the owner is going to sell. He asked that the Commission look at an expansion of Alternative Two to see if Marysville could get their Mobile Home Parks in a good working relationship with the owners. Adding that all the residents wanted was stability, security, and safety.

Emily Alvarado PO Box 1326, Everett WA 98206

Ms. Alvarado stated that she was here on the behalf of the Housing Consortium of Everett and Snohomish County and wanted to commend the City for the work they had done in identifying and recommending preservation. She suggested that Alternative Two be expanded to include all parks. She described what the HCESC tried to accomplish as far as affordable housing. Ms. Alvarado stated that Mobile Home Parks fill an important affordable housing need. She discussed the 6 parks that have been closed since 2006, which displaced more than 700 households. Mr. Alvarado added that at least one of these parks still stood undeveloped. She urged the Planning Commission to provide zoning to protect all Manufactured Home Parks.

Luella Rieger 4401 80th St. NE, Marysville WA 98270

Ms. Rieger described why she had left the Lake Stevens area when she and her husband looked at retiring. They purchased a mobile home and moved it in to La Tierra 26 years ago. She described how neighbors looked out for each other and how the ability to have a yard and a garden improved lifestyle. Ms. Rieger wanted to see the zoning changed to Mobile Home Park zoning which would give them a little more clout.

Chris Troxell 5900 64th St NE #183, Marysville WA 98270

Mr. Troxell explained that he was a short term resident at Glenwood Estates. Mr. Troxell described the tight knit community, access to work, family, buses, doctors, etc. that he enjoyed living in this community. He explained that he moved here because he could afford to. He wanted a proposal to protect all homes, and felt that any proposal which didn't was just "frosting". Commissioner Leifer questioned Mr. Troxell's stance on Alternative two. Mr. Troxell responded that he supported Alternative Two with expansion to cover all parks.

Ishbel Dickens

Ms. Dickens explained what the State Law requires as far as lease. She stated that it requires landlords to supply the homeowner with a one year lease which renews automatically without the homeowner having to do anything. She added that it is the homeowners who pay for the relocation assistance program, not the landlords. There is a \$100 transfer fee when a home is sold and it is this fee that funds the program. She explained the costs associated moving a mobile home and the process for reimbursement.

Chair Muller solicited any further public testimony, seeing none, he closed the public hearing.

COMMISSIONER COMMENTS:

Commissioner Foster questioned whether there was any interest in the City for new parks. Ms. Dungan responded that she had a phone call recently regarding a new park, but that nothing had come of it. Commissioner Foster questioned if there were any proposed closures; Ms. Dungan responded none at this time and none since 2006.

Commissioner Leifer questioned Staff on the ordinance and whether Mobile Home Parks would be allowed in Mixed Use zones. Ms. Dungan responded that they would not be. He also questioned what an insignia mobile home was. Ms. Dungan replied that it was a mobile home built to certain standards. Alternative 2 was discussed further. Commissioner Leifer wanted to know what the specific method would be if a park owner applied for a rezone. Ms. Dungan responded that it would go in front of the Hearing Examiner.

Commissioner Kvangnes questioned what the "stable" description meant. Ms. Dungan responded that it meant that the parks had been in existence for at least 20 years or longer and that the residents had lived there for long periods of time.

Commissioner Stevens commented on the "stability" reference and felt that it also inferred that stability indicated that there was good cash flow. He discussed Option 4 which had not been discussed. Commissioner Stevens felt that at this point he would suggest not doing anything as there did not seem to be much interest in re-developing the parks at this time. He didn't feel that he had heard a compelling argument for the rezone option. As he understood it, this would just make the closure process take longer. Ms. Dungan replied that it provided a public process if a park was set for rezone.

Chair Muller questioned if there was any other way than applying an overlay zone to allow for public process. He wanted to know if an application for rezone was submitted, what zone it could go back to. Ms. Dungan responded that the Comp Plan would not be changed, so the underlying zoning would hold. Chair Muller wanted to know if there was anything that could be done to put the Housing Authority or another agency into action for purchase of parks. Ms. Dungan responded that they could provide information and education, but short of that, the City could not force any land owner to sell. Ms. Hirashima said that the issue faced by the Housing Authority was funding. She added that the city could certainly encourage this type of action.

Commissioner Leifer questioned Alternative 2 and the reference to "...other uses not limited to..." he wanted to know what the other uses might be. Ms. Dungan responded that the full list was included in the draft ordinance.

Chair Muller stated that he was a proponent of the land owners right to develop their property. He was also appreciative of the investment that the homeowners had made as well as the initial intended use of the parks. Chair Muller thought that the proposed ordinance allowed for options for the land owners. Commissioner Leifer responded that he

had a very difficult time with this issue. He had concerns about the Federal lawsuit pending with Tumwater's Ordinance. He advocated land owners rights to develop their property. He felt that it was a greater problem than just the Mobile Home Park owners; it was societal problem that needed to be dealt with in some way and this was an opportunity to do something. Commissioner Leifer stated that he was leaning toward Alternative 2 as it allowed for discussion to take place and provided a way to allow the parks to be preserved.

Motion made by Commissioner Leifer to recommend Staff Recommended Option Two be forwarded to City Council for review, seconded by Commissioner Kvangnes. Motion carries, (5-1), with Commissioner Stevens opposing.

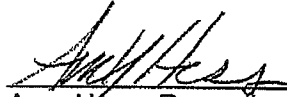
Commissioner Kvangnes questioned if Council desired, could they expand upon Alternative 2. Ms. Hirashima responded that they could make recommendations.

ADJOURNMENT:

Motion made by Commissioner Foster, seconded by Commissioner Stevens to adjourn at 8:53 p.m. Motion carries, (6-0).

NEXT MEETING:

July 13, 2010



Amy Hess, Recording Secretary



MARYSVILLE PLANNING COMMISSION

May 25, 2010

7:00 p.m.

City Hall

CALL TO ORDER

Chairman Muller called the May 25, 2010 meeting of the Marysville Planning Commission to order at 7:06 p.m. noting the excused absence of Michael Stevens. The following staff and commissioners were present:

Chairman: Steve Muller

Commissioners: Jerry Andes, Steve Leifer, Becky Foster, Eric Emery, Deirdre Kvangnes

Staff: Planning Manager-Land Use Cheryl Dungan, Recording Secretary Amy Hess

Absent: Michael Stevens

APPROVAL OF MINUTES:

May 11, 2010

Motion made by Commissioner Leifer, seconded by Commissioner Andes to approve the May 11, 2010 meeting minutes as amended. Motion carries, (5-0).

CURRENT BUSINESS:

Mobile/Manufactured Home Park Preservation, Continued

Ms. Dungan explained that at the last meeting, the Commission had requested the Housing Authority come speak and introduced the associates present from The Housing Authority of Snohomish County.

Presentation on Park Purchases by The Housing Authority of Snohomish County

Ms. Schroeder Osterberg introduced the Housing Authority of Snohomish County (HASCO) and gave an overview of the organization and the programs they conduct. She began the Mobile Housing Community Preservation Presentation which outlined HASCO's programs, experience, and procedures associated with park preservation. She introduced 2 parks that HASCO had been involved with recently which included Thomas Place and Alpine Ridge. She explained the Financing that was utilized for each park including where the funding

came from and how those funds were used in the preservation and rehabilitation of the parks. Ms. Schroder Osterberg explained how HASCO went about obtaining financing for the potential home owners of these parks working with BECU to get competitive interest rates and loan terms.

Chair Muller questioned why the decision was made to put the homes on the pads and sell the homes rather than following a typical park setting where the pads are made available for owners of mobile homes to bring them in. Ms. Schroeder Osterberg responded that it allowed the community to be maintained and set standards for longevity of the project. Commissioner Leifer questioned the financing of the homes and how the lenders were able to offer the terms discussed. Ms. Schroeder Osterberg responded that HASCO has an agreement with BECU that insured that if a home owner fell behind on payments, HASCO would step in and take steps to make sure the loan did not default.

Commissioner Leifer questioned how the cost per pad differed between each project. Ms. Schroeder Osterberg responded that the parks were very different, but that it was still an affordable acquisition and would provide affordable housing to seniors. Chair Muller questioned the pad rental fee structure in each park. Mr. Davis responded explaining that there was an existing demand before the preservation took place, so the pad fee didn't have to be increased so aggressively.

Chair Muller questioned situation where preservation projects wouldn't work. Mr. Davis responded that Alpine Ridge was probably the most expensive project HASCO would ever be involved with. With the current economic atmosphere, he was hoping that more preservation projects could be undertaken with fewer subsidies from government entities. Chair Muller questioned the burden of property taxes which were immense for these parks; Mr. Davis responded that HASCO was exempt from property taxes since it was a non-profit. Commissioner Andes questioned the discounts that had been obtained by purchasing the homes at Thomas Place wholesale and whether there were any breaks on the cost of infrastructure such as water and sewer hook ups. Ms. Schroeder Osterberg responded that they send out infrastructure to bid the same way any public entity would, so there really was no discount

There was discussion about comparable costs associated with multi-family complexes and mobile home park communities. Commissioner Leifer questioned the overall costs of pads and house placement. Mr. Davis and Ms. Schroeder Osterberg responded and explained that the difference in choosing to live in a manufactured home community or a subsidized apartment was up to the individuals. The benefits of paying slightly more money for a manufactured home seemed to be significant to the individuals living in these types of communities. Mr. Davis explained that in order to do a project within Marysville City Limits, the law required that HASCO approach the City Council for approval on a project by project basis.

Commissioner Andes questioned whether doing what the City of Lynnwood had done as far as allowing HASCO to be their Housing Authority would be an option for Marysville. Ms. Dungan responded that at this time, the City would not be interested in that type of an arrangement as the Council likes an opportunity to review on a project by project basis.

There was discussion regarding average timelines on these types of projects. A public hearing date was set for June 22.

NEW BUSINESS:

ADJOURNMENT:

Motion made by Commissioner Emery, seconded by Commissioner Foster to adjourn at 8:00 p.m. Motion carries, (6-0).

NEXT MEETING:

June 8, 2010



Amy Hess, Recording Secretary



MARYSVILLE PLANNING COMMISSION

May 11, 2010

7:00 p.m.

City Hall

CALL TO ORDER

Chairman Muller called the May 11, 2010 meeting of the Marysville Planning Commission to order at 7:01 p.m. noting the excused absences of Becky Foster, and Eric Emery. The following staff and commissioners were present:

Chairman: Steve Muller

Commissioners: Jerry Andes, Steve Leifer, Deirdre Kvangnes, Michael Stevens

Staff: Planning Manager-Land Use Cheryl Dungan, Recording Secretary Amy Hess

Absent: Becky Foster, Eric Emery

APPROVAL OF MINUTES:

April 13, 2010

Motion made by Commissioner Kvangnes, seconded by Commissioner Andes to approve the April 13, 2010 meeting minutes as amended. Motion carries, (5-0).

CURRENT BUSINESS:

Mobile/Manufactured Home Park Preservation, Continued

Ms. Dungan gave an overview of the suggestions given by the Commission at the April 13, 2010 meeting. She overviewed the Port or Housing Authority options that had been suggested. She explained that she had taken this option to the Executive Office and that at this time there was no money for this and that a city the size of Marysville is not large enough to support this type of entity. Ms. Dungan stated that she had had a conversation with Snohomish County Housing Authority and that they were very interested in purchasing Mobile Home Parks. Chair Muller stated that he had run the numbers and that this type of affordable housing provided strong income streams to support other options and that the options in front of the Commission did not solve the problem. Ms. Dungan responded that she knew that the zoning restrictions were not a fix all, but that at least it allows for public process. She added that as a city, we really didn't have anything to offer Park owners in the way of incentives to preserve.

Chair Muller discussed some of the models that he had run, including Cedar Lane Park. Ms. Dungan explained that she had run some numbers from parks in Lynnwood and that there was approximately \$13.5 million in land value and \$8 million in home value. Chair Muller stated that the numbers support the model, but that the problem is getting the funding. Ms. Dungan responded that in her research she had seen the home owners come together to form an LLC to purchase the park, but that they usually had help from Housing Authority type organizations.

Commissioner Leifer questioned how the city could implement a program that would force the owner of the park to sell to the home owners rather than developers or another party. Chair Muller suggested that the owner would likely take the more attractive offer from a Housing Authority with no contingencies while a developer would ask for extensive studies that could be time consuming. Chair Muller thought that as a larger city, we should take more initiative in providing affordable housing.

Ms. Dungan explained that the city can only do what it has the tools to do and those tools are zoning and policies at this point. Commissioner Kvangnes stated that she was leaning towards agreeing with Chair Muller's comments. Commissioner Stevens didn't think that in a few years from now the city would be so quick to turn down the idea of a Housing Authority and that the current conversation was ill timed. He felt that in a different economic climate, there might be the revenues to support this. Chair Muller suggested hearing from Snohomish County Housing Authority to get more ideas. Ms. Dungan explained that the county already had policies in place and that they knew how to purchase parks and had extensive experience. She didn't feel that it would be necessary to "re-invent" a mechanism that was already in place.

Commissioners agreed that they would all like to hear from the Snohomish County Housing Authority. Ms. Dungan responded that she would be more than happy to set that up. Commissioner Andes was concerned about the parks that were in areas that were more apt to be redeveloped and what would be done if new parks wanted to come in after others had just been dismantled. Ms. Dungan responded that mechanisms and codes were in place to allow for this. Commissioner Andes wanted to know what incentives were in place. He was concerned about the initial fees associated with water and sewer hook ups.

Commissioner Kvangnes questioned the parks visited and whether or not they were on septic or sewer. Ms. Dungan responded that all but two were connected to sewer. There was further discussion on the numbers associated with running parks.

NEW BUSINESS:

Train Noise

Ms. Dungan explained that staff had been asked to look into the issue of the train horns. She described the email that the city had received from a citizen regarding train noise. She further explained the laws as they stood prior to 2005 and quiet zones. The Federal Government imposed a law in 2005 after studies had been conducted that showed that crossings without horn blows had a higher rate of accidents and fatalities. Because of this,

a law was initiated to require horns to be blown at all crossings. It did allow for cities to apply for a Quiet Zone designation, but that it would require upgrading crossings which is quite expensive. She added that the City has not received many complaints about the train noise. Commissioner Andes suggested sending out a survey to the citizens of Marysville to find out whether or not the train noise was a nuisance. Ms. Dungan responded that the City wasn't interested at this time due to costs and time involved with applying for a Quiet Zone. Chair Muller suggested doing more research now to be prepared for a time in the future when we might meet more of the criteria and be prepared to apply for Quiet Zone Designation. Ms. Dungan stated that if they started hearing more complaints from citizens, they would take a look at it. Commissioner Leifer added that he thought many people didn't complain to the city because they thought that it would be a BNSF issue, not a City of Marysville.

ADJOURNMENT:

Motion made by Commissioner Andes, seconded by Commissioner Stevens to adjourn at 7:49 p.m. Motion carries, (5-0).

NEXT MEETING:

May 25, 2010



Amy Hess, Recording Secretary



MARYSVILLE PLANNING COMMISSION

April 13, 2010

7:00 p.m.

City Hall

CALL TO ORDER

Chairman Muller called the April 13, 2010 meeting of the Marysville Planning Commission to order at 7:01 p.m. noting the excused absence of Becky Foster, and Deirdre Kvangnes. The following staff and commissioners were present:

Chairman: Steve Muller

Commissioners: Jerry Andes, Steve Leifer, Michael Stevens, Eric Emery

Staff: Planning Manager-Land Use Cheryl Dungan, Recording Secretary Amy Hess

Absent: Becky Foster, Deirdre Kvangnes

APPROVAL OF MINUTES:

March 23, 2010

Motion made by Commissioner Andes, seconded by Commissioner Stevens to approve the March 23, 2010 meeting minutes as amended. Motion carries, (5-0).

CURRENT BUSINESS:

Manufactured Home Park Preservation

Chair Muller solicited any public comment on anything other than what was on the agenda. Seeing none, he invited Ms. Dungan to begin her presentation. Ms. Dungan gave an overview of the history of the Mobile Home Park Preservation topic on the Agenda. Background on Manufactured Home Parks was given by Ms. Dungan as well as history of Parks in Washington State. She then overviewed the 13 parks within Marysville City Limits, including number of units, current zoning and age restrictions. The Manufactured Home Park Committee was discussed as well as the outcome of both meetings. The point of view from both the park owner and manufactured home owner was presented.

Ms. Dungan was offering the Planning Commission four alternatives including 1.) No Action Alternative; 2.) Voluntary Incentive Alternative; 3.) Zoning/Regulatory Alternative and; 4.) Zoning/Regulatory Comprehensive Alternative. She outlined the details and options of each alternative for the Commission.

Commissioner Leifer questioned the Zoning/Regulatory Alternative and if the alternate uses would be allowed throughout the park. Ms. Dungan responded that, yes, the other uses could be dispersed throughout the park.

Ms. Dungan overviewed each park within City Limits in more detail, including the park size, number of spaces, zoning, age restriction, density, finishing with Staff Recommendation and Analysis for each.

Chair Muller questioned the City's ability to change zoning in the parks, Ms. Dungan responded that zoning could be changed subject to the rezone criteria outlined in the code and hearing before the hearing examiner. Chair Muller questioned if involving the Housing Authority would be an option; clarifying that he meant having the Housing Authority take over the parks. Ms. Dungan stated that she would look into this option. Commissioner Stevens questioned who was responsible for maintaining the units; Ms. Dungan responded that it was the home owner's responsibility.

Commissioner Andes questioned if Ms. Dungan was able to find out which parks are hooked up to water/sewer. Ms. Dungan responded that she didn't have the exact numbers, but that it looked like most were hooked up to sewer; the sewer wasn't typically run through the middle of the road, so a lack of man hole covers was not indicative of whether or not sewer was present. Commissioner Andes questioned Brookside Park and if it were to be redeveloped, could the water and sewer hook ups be "banked" for another location. Ms. Dungan responded that she wasn't sure if that would be possible, but that there currently is credit given to the developer for existing water and sewer hook ups.

Commissioner Leifer questioned if a developer would be compensated for the hook ups on site. Ms. Dungan responded that there is a monetary compensation for the existing hook ups and that is why they wouldn't be crediting those hook ups in another location. The lack of long term contracts in these types of communities was discussed as well as any potential remedies. Commissioner Leifer had questions regarding legal actions that had been put in place by legislature that had been overturned by the courts. He also questioned the lack of security in zoning and whether that was across the board or specific to Manufactured Home Park Zones. Ms. Dungan responded that zoning was not a property right; zoning could change at any point in any given zone. Ms. Dungan gave another option which would be waiting for some of the pending Superior Court and Federal Court cases to be settled and drafting something that could withstand the rulings of these court cases.

Commissioner Leifer questioned the security of parks in the Ordinance that had been adopted by Snohomish County. Ms. Dungan responded that the County's ordinance also allowed the parks granted the MHP zone to rezone to another zone. The City's alternative 3 and 4 offered the same type of option which provides a public process in the event of a rezone proposal.

Chair Muller suggested looking at a vehicle that allowed for bonding opportunities that could take care of both sides, he was just unsure of exactly how to do it. Further explaining that if a mobile home were put up for sale, the Housing Authority could purchase it with bonds, then the park revenues could help repay the bonds. Ms. Dungan responded that she could

look further into it. Commissioner Emery suggested just zoning it as a Manufactured Home Park, which would give the City more time because there would be a Hearing process that would have to be gone through if the property owner decided to sell. Commissioner Stevens felt that the Commission should focus their attention on alternatives rather than the interim option of making it take longer. He also thought the rights of the park owner should be maintained as far as recouping the value of their property. Ms. Dungan stated that in the Manufactured Home Park Committee meeting, the Park owners said that they would not be willing to voluntarily preserve a park unless there was a very substantial savings involved. Reducing water and sewer rates would not provide a substantial enough saving to interest the park owners.

NEW BUSINESS:

Greenhouse Gas Policies-Informational Only

Ms. Dungan presented an overview of a Draft Resolution for adopting affordable options for reducing Green House Gas Emissions. She explained that this Resolution was intended to address the State Law and allow the City to continue to qualify for state and federal funding. She explained the basic components of the proposed resolution. She added that the City had just been officially adopted as a "Tree City USA" location which meets one of the policies in the draft resolution. Commissioner Leifer suggested addition of language for supporting alternative energy sources. He felt that the groundwork needed to be put in place to allow for more alternative energy sources. Ms. Dungan explained that current code doesn't address these types of energy sources and that staff could look into possible code revisions to address alternative energy sources. Commissioner Leifer thought that people's perception needed to be changed as far as what is good and what is bad in reference to wind mills, solar complexes, and other types of alternative energy sources. Commissioner Stevens made a recommendation to add language encouraging employees to use public transportation.

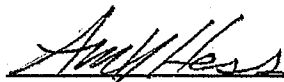
Chair Muller questioned restricting noise in the city, mainly the trains blasting horns through town as well as the noise created by the speed of the trains. Ms. Dungan replied that she would look into what could be done about this, including what other jurisdictions had done.

ADJOURNMENT:

Motion made by Commissioner Stevens, seconded by Commissioner Andes to adjourn at 8:19 p.m. Motion carries, (5-0).

NEXT MEETING:

April 27, 2010



Amy Hess, Recording Secretary



MARYSVILLE PLANNING COMMISSION

March 23, 2010

5:00 p.m.

City Hall

CALL TO ORDER

Chairman Muller called the March 23, 2010 meeting of the Marysville Planning Commission to order at 5:34 p.m. noting the excused absences of Eric Emery, Steve Leifer, and Michael Stevens. The following staff and commissioners were present:

Chairman: Steve Muller

Commissioners: Jerry Andes, Deirdre Kvangnes, Becky Foster

Staff: Planning Manager-Land Use Cheryl Dungan, Senior Planner Chris Holland, Recording Secretary Amy Hess

Absent: Eric Emery, Steve Leifer, Michael Stevens

APPROVAL OF MINUTES:

February 23, 2010

Motion made by Commissioner Foster, seconded by Commissioner Andes to approve the February 23, 2010 meeting minutes as presented. Motion carries, (4-0).

CURRENT BUSINESS:

Sign Code Recommendation

Mr. Holland briefed the Sign Code Recommendation which would be sent to City Council. **Motion** made by Commissioner Kvangnes, seconded by Commissioner Andes to sign the recommendation as amended, including language that the Chambers had also been notified. Motion carries, (4-0).

Mr. Holland explained the memo regarding Pole/Pylon signs and the clarification he was seeking regarding this matter. He overviewed the three options for the Commission to consider and explained each one in detail. Commissioners agreed that they felt Option 2 was the outcome they intended.

Chair Muller adjourned this portion of the meeting at 5:45 p.m.

NEW BUSINESS:

Mobile Home Park Preservation Field Trip

The following Mobile Home parks were visited:

Glenwood Mobile Estates, Cedar Lane, Liberty Village, Mobile Haven, La Tierra, Twin Cedars, Brookside, Kellogg Village, Mobile Manor, Emerald Hills Estates, Midway Gardens, and Crystal Tree Village. At each park, Ms. Dungan discussed age designation (senior/family), current zoning, total acreage, density, number of units, and rental fees. She explained that the Comprehensive Plan identifies, those parks that were currently designated/zoned residential for preservation. Parks in other zones such as commercial and industrial are not identified in the Comprehensive Plan for preservation. She pointed out that the 55 and over communities seemed to be better maintained than the non-senior parks. The Commissioners agreed with this observation.

Ms. Dungan explained that recently there had been a change to state law that would allow recreational vehicles in Mobile Home Parks. The City's code currently did not include this adding that it would be updated to reflect the new law. Chair Muller questioned whether particular parks were on City Sewer as he did not notice man-hole covers in many of them. Ms. Dungan responded that she was not sure but that she would find out which parks were on sewer and which were not.

Questions arose regarding sidewalks and curbs in the parks. Chair Muller was curious as to why they were not required in a mobile home park but were in a single family sub-division of the same density. Ms. Dungan responded that because the parks were private roads, they weren't subject to the same requirements.

There was final discussion on what the next step in the process would be. Ms. Dungan stated the next step is to do a presentation at the April 13, 2010 Workshop and receive guidance from the Planning Commission on how to proceed. Ms. Dungan discussed the Mobile Home Committee that had been formed, adding that all sides were well organized and represented. She overviewed the Ordinance that Tumwater had recently adopted regarding Mobile Home Parks; adding that it was under appeal at the Superior Court and Federal Court Level.

NEXT MEETING:

April 13, 2010



Amy Hess, Recording Secretary



COMMUNITY DEVELOPMENT DEPARTMENT
80 Columbia Avenue ♦ Marysville, WA 98270
(360) 363-8100 ♦ (360) 651-5099 FAX

MEMORANDUM

DATE: October 4, 2010
TO: City Council
FROM: Cheryl Dungan, Planning Manager – Land Use
RE: Mobile/Manufactured Home Park Preservation

INTRODUCTION

The purpose of this staff report is to provide information regarding the attached ordinance proposing amendments to Chapter(s) 19.04; 19.08; and 19.38 of the MMC.

The attached revisions establish a new Residential-Mobile/Manufactured Home Park (R-MHP) zone that is designed to protect existing MHPs that contain rental pads as opposed to fee simple owned lots within residential zones. The revisions also establish permitted and conditional uses within the new zone. Additionally the revisions reflect a recent change in State law which permits recreational vehicles to be utilized as a primary residence within MHPs

BACKGROUND

According to the Washington State Finance Commission (WSFC), manufactured housing communities (MHC) known by many as mobile home parks, are one of the largest sources of subsidized housing in Washington State. Manufactured homes provide affordable housing for about 500,000 people, or approximately 8% of state residents, many of them elderly. However, MHCs are closing at an alarming rate. According to Community, Trade and Economic Development (CTED) statewide, 16 communities closed in 2006, including 715 households (that total includes 225 in Eagle Point and 6 spaces in Smokey Point); 18 communities closed in 2007, impacting 534 households; 16 closed in 2008, impacting 718 households; and as of March 2009, 7 communities have given closure notice for 2009/2010, impacting 195 households. Marysville currently has 13 MHPs within the city limits which contain 1,130 rental spaces (see Figure 1).

MARYSVILLE'S MOBILE HOME PARKS

Park Name	Current Zoning	# of units	Age Restricted
Brookside	GC	44	None
Crystal Tree Village	R-12	163	55+
Emerald Hills Estates	R-18	139	55+
Glenwood Mobile Estates	R-18	231	55+
La Tierra	R-18	62	55+
Liberty Village	MU	37	55+
Midway Gardens	GC	74	55+
Mobile Haven	CB	74	55+
Mobile Manor	CB	92	55+
Twin Cedars	GC	62	None
Cedar Lane Park	R-18	20	None
Kellogg Village	R-6.5	108	None
Country Mobile Estates	R-6.5	24	None

Stakeholders Group

In 2009, the City formed a stakeholder's group to discuss the proposed MHP preservation issue. The stakeholder's group, which included MHP owners; MH owners; their legal representatives; a representative from 'Manufactured Housing Communities of Washington'; a representative from 'Association of Manufactured Home Owners; one member of the Planning Commission; and city staff met twice. The group had open discussions on impacts of park preservation/closings from both the park and MH owner's perspectives. Both sides listened to each other and got a view of the other side of the story.

The park owners were interested in retaining their existing zoning and preferred no action or voluntary incentives over a new MHP zone. There was discussion regarding other jurisdictions who had adopted voluntary incentives in exchange for a commitment by the MHP owner not to redevelop for a period of time, and how there has been no takers. It was stated that only meaningful incentives that provided significant savings would entice owners into participation. There was mention of the appeal of the Growth Hearings Board decision pending in Thurston County Superior Court over the Tumwater MHP preservation ordinance as well as an appeal of the ordinance in Federal Court on constitutional issues.

Residents of the parks stated that the majority of MH owners are retired, often on fixed incomes and that the purchase of their MH gives them the ability to live in single-family type housing units and allows them a sense of independence that apartment/condo living would not. They also pointed out that 'mobile homes' today are not mobile, they are not

easily moved and once they leave the dealer's lot, due to the high expense of the moving and the potential for significant structural damage they tend to stay where placed. It was also stated that when parks close, the units tend to be demolished rather than moved. Discussion also ensued regarding the difficulty in finding a place to move older MHs, as most parks do not accept units that are over a certain age. Also because of park closings, vacant spaces are difficult to find.

Other Jurisdictions

Snohomish County – Ordinance No. 07-029 (effective March of 2007) - Adopted a Mobile Home Park Preservation (MHPP) ordinance to promote the voluntary retention of mobile home parks by the creation of a MHP zone. The intent of the zone was to provide and preserve high density, affordable residential development consisting of mobile homes for existing mobile home parks. Rezoning of the park to the MHP zone, was voluntary and could only be done by the park owner on parks that were regulated by a conditional use permit or as a nonconforming use. The applicant was required to submit a vacation of the conditional use permit concurrently with the rezone application. No one applied for the voluntary rezone. As a result, Snohomish County placed an emergency 6-month moratorium on the redevelopment of mobile home parks which was extended a total of 3 times while the County's MHP protection ordinance was developed and ultimately adopted in October of 2009. Under the County's Ordinance, multiple uses are allowed under the MHP zone. Additionally, upon meeting specific criteria the park owner is allowed to apply for a rezone to another zoning designation.

City of Lynnwood – Adopted Ordinance 2723 (July 2008) which provides a provision that mobile home park owners may enter into a developer agreement with the city to maintain the MHP for a minimum term of five (5) years which shall renew automatically for additional periods as agreed to by the owner and the City. A one year notification to the City and residents is required to terminate agreement. In exchange, the owner receives a 50% reduction in water and sewer rates (for first 5-7 years) and a 25% reduction after 7 years. The city also waives all permit, approval, processing and inspection fees for any construction or repair to maintain, operate or improve the MHP during the agreement period. Lynnwood stated that they had looked at a tax reduction incentive with the Assessor's Office, but the Assessor didn't think a 5-year term warranted a reduction. They did state that the Assessor may consider a reduction if the term was at least 10 years in length. To date no one has applied. The City of Lynnwood is currently in the process of reviewing the MHP preservation issue.

City of Bothell - The city of Bothell has a MHP comprehensive plan designation and overlay zone which was adopted in 2006. The overlay has been applied to 6 MHPs. MHPs are the only use allowed under Bothell's zoning designation unless the applicant applies for a comprehensive plan amendment and rezone.

City of Everett - The City of Everett has a voluntary program where mobile home park owners can rezone to a mobile home park overlay zone. The MHP overlay zone is required to remain in effect for a minimum of five years and is self-renewing (MHP

owners can ask and receive approval of a longer time period). The MHP owner must notify the City after the third year anniversary and at least 2 years in advance if they wish to opt out of the rezone agreement. Upon expiration of the MHP overlay designation, the zoning reverts to the underlying zone. There are no incentives provided to park owners to encourage the rezone. Everett Planning staff stated that they had looked at providing incentives but received the same comment from the Assessor's Office regarding the 5-year term. They also considered but opted not to provide a break in sewer/water fees. No one has applied to date.

City of Tumwater – In February of 2009 the City of Tumwater adopted comprehensive plan amendments creating a new MHP land use designation and policies supporting the protection of MHPs as affordable housing. Concurrently they created a new MHP zone which allowed multiple uses that are compatible with residential development. The park owner may apply to the City Council for a 'use exception' if they can meet specific criteria. Tumwater's Ordinance was appealed to the Growth Hearing Board, the board found that because there is no right to the continuation of existing zoning, there is no dispossession of a property right by City action that changes the zoning, they also found it met GMA requirements, but failed to specifically address the Attorney General's memo on takings in their adopting ordinance. The GHB decision was appealed to Thurston County Superior Court where it is awaiting trial. Additionally, an appeal was filed in Federal Court stating MHP owner's constitutional rights had been violated, that case is also awaiting trial.

Tumwater Growth Hearings Board Decision

In 2008 the City of Tumwater adopted a new MHP zoning designation which allowed multiple uses in the zone. The ordinance was appealed to the Growth Hearings Board by *Manufactured Housing Communities of Washington* and a MHP owner. In the Tumwater appeal, the GHB found the Tumwater Ordinance to be in compliance with GMA. With regards to the change of zoning to a MHP zone, the GHB found that because there is no right to the continuation of existing zoning, there is no dispossession of a property right by City action that changes the zoning.

The GHB did make a finding that Tumwater failed to comply with the AG's memorandum regarding takings (RCW 36.70A.370(2)), as they failed to make specific reference to the memorandum and their review in the ordinance, even though they discussed the takings issues both publicly and internally. (Snohomish County remedied this by referencing their review and consideration of the AG's memo in their ordinance.) The GHB also stated they did not have the authority to review the constitutionality of the ordinance.

The GHB's decision is currently under appeal in Thurston County Superior Court, a case was also filed in Federal Court regarding the constitutionality of the Tumwater Ordinance.

Takings – Attorney General’s Memorandum

The AG’s memorandum was developed to advise cities regarding constitutional takings. The memorandum includes but is not limited to consideration of whether the proposed regulations will result in a permanent or temporary physical occupation of private property; whether the proposed regulations will deprive affected property owners of all economically viable uses of their property; whether the proposed regulations will deny or substantially diminish a fundamental attribute of property ownership; whether the proposed regulations require a property owner to dedicate a portion of property or grant an easement; and whether the proposed regulations will have a severe economic impact on the property owners’ economic interests.

Planning Commission Recommended Action

The proposed ordinance would adopt a new Residential-Mobile/Manufactured Home Park (R-MHP) zone that is designed to protect existing MHPs that contain rental pads as opposed to fee simple owned lots within residential zones. The proposed ordinance would also establish permitted and conditional uses within the new zone. Additionally the proposed ordinance would allow recreational vehicles to be utilized as a primary residence within MHPs (consistent with State law).

Similar to Snohomish County’s MHP preservation ordinance, the MHP zone would allow multiple uses in the zone, including but not limited to single family homes on existing lots of record; senior citizen assisted living facilities; planned senior communities; adult family homes; accessory structures; home occupations; bed and breakfast guesthouse; parks; community centers; churches; funeral home, cemetery; daycare I or II; public schools; WCFs; regional stormwater facilities; etc. The proposed uses would be similar to what is allowed in other residential areas of the City. Additionally, the MHP owner would be allowed to apply for a rezone consistent with the then current comprehensive plan land use designation for the property.

The rezone criteria are as follows (the criteria below are applicable to any property within the city applying for a rezone):

1. There is a demonstrated need for additional zoning as the type proposed;
2. The zone reclassification is consistent and compatible with uses and zoning of the surrounding properties;
3. There have been significant changes in the circumstances of the property to be rezoned or surrounding properties to warrant a change in classification;
4. The property is practically and physically suited for the uses allowed in the proposed zone reclassification.

While the rezoning of an existing park to the R-MHP zone does not offer permanent protection, it does provide a public process through the rezone.

STATE OF WASHINGTON
OFFICE OF THE ATTORNEY GENERAL

Advisory Memorandum and Recommended Process for Evaluating
Proposed Regulatory or Administrative Actions
to Avoid Unconstitutional Takings of Private Property

December 2006

Introduction

The Office of the Attorney General is directed under RCW 36.70A.370 to advise state agencies and local governments on an orderly, consistent process that better enables government to evaluate proposed regulatory or administrative actions to assure that these actions do not result in unconstitutional takings of private property.

This process must be used by state agencies and local governments that plan under RCW 36.70A.040 – Washington’s Growth Management Act. The recommended process may also be used for other state and local land use planning activities.* Ultimately, the statutory objective is that state agencies and local governments carefully consider the potential for land use activity to “take” private property, with a view toward avoiding that outcome.

RCW 36.70A.370 Protection of Private Property.

(1) The state attorney general shall establish ... an orderly, consistent process, including a checklist if appropriate, that better enables state agencies and local governments to evaluate proposed regulatory or administrative actions to assure that such actions do not result in an unconstitutional taking of private property....

(2) Local governments that are required or choose to plan under RCW 36.70A.040 and state agencies shall utilize the process established by subsection (1) of this section to assure that proposed regulatory or administrative actions do not result in an unconstitutional taking of private property.

...

Purpose of This Document

This *Advisory Memorandum* was developed to provide state agencies and local governments with a tool to assist them in the process of evaluating whether proposed regulatory or administrative actions may result in an unconstitutional taking of private property or raise substantive due process concerns. Where state agencies or local governments exercise regulatory authority affecting the use of private property, they must be sensitive to the constitutional limits on their authority to regulate private property rights. The failure to fully

* The process used by state agencies and local governments to assess their activities is protected by attorney-client privilege. Further, a private party does not have a cause of action against a state agency or local government that does not use the recommended process. RCW 36.70A.370(4).

consider these constitutional limits may result in regulatory activity that has the effect of appropriating private property even though that outcome may not have been intended. If a court concludes that private property has been “taken” by regulatory activity, it will order the payment of just compensation equal to the fair market value of the property that has been taken, together with costs and attorneys fees. In other cases, a government regulation may be invalidated if it is found to violate constitutional substantive due process rights.

This *Advisory Memorandum* is intended as an internal management tool for agency decision makers. It is not a formal Attorney General’s Opinion under RCW 43.10.030(7) and should not be construed as an opinion by the Attorney General on whether a specific action constitutes an unconstitutional taking or a violation of substantive due process. Legal counsel should be consulted for advice on whether any particular action may result in an unconstitutional taking of property requiring the payment of just compensation or may result in a due process violation requiring invalidation of the government action.

Where state agencies or local governments exercise regulatory authority affecting the use of private property, they must be sensitive to the constitutional limits on their authority to regulate private property rights.

Prior editions of this document were published in February 1992, April 1993, March 1995, and December 2003. Those editions are superseded by this document.[†]

Organization of This Document

This *Advisory Memorandum* contains four substantive parts. The first part outlines a ***Recommended Process for Evaluating Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property*** utilizing the other substantive portions of the *Advisory Memorandum*.

The second part, ***General Constitutional Principles Governing Takings and Due Process***, presents an overview of the general constitutional principles that determine whether a government regulation may become so severe that it constitutes an unconstitutional taking of private property or violates substantive due process rights. This discussion is derived from cases that have interpreted these constitutional provisions in specific fact situations.

The third part is a list of ***Warning Signals***. This section provides examples of situations that may raise constitutional issues. The warning signals are useful as a general checklist to evaluate planning actions, specific permitting decisions, and proposed regulatory actions. The warning signals do not establish the existence of a problem, but they highlight specific instances in which actions should be further assessed by staff and legal counsel.

The fourth part is an ***Appendix***, which contains summaries of significant court cases addressing takings law.

[†] The Office of the Attorney General reviews the Memorandum on Takings on an annual basis and updates it when necessary to maintain consistency with changes in case law. No significant case law updates have been needed since the 2006 memorandum was issued. Accordingly, the 2006 Advisory Memorandum continues as the currently recommended basis for state and local government planners to evaluate proposed regulatory or administrative action so that unconstitutional takings of private property may be avoided.

Part One: Recommended Process for Evaluating Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property

1. **Review and Distribute This *Advisory Memorandum*.** Local governments and state agencies should review this *Advisory Memorandum* with their legal counsel and distribute it to all decision makers and key staff to ensure that agency decision makers at all levels of government have consistent, useful guidance on constitutional limitations relating to the regulation of private property. Legal counsel should supplement this document as appropriate to address specific circumstances and concerns of their client agency or governmental unit.

2. **Use the “Warning Signals” to Evaluate Proposed Regulatory Actions.** Local governments and state agencies may use the *Warning Signals* in part three of this *Advisory Memorandum* as a checklist to determine whether a proposed regulatory action may violate a constitutional requirement. The warning signals are phrased as questions. If there are affirmative answers to any of these questions, the proposed regulatory action should be reviewed by staff and legal counsel.

3. **Develop an Internal Process for Assessing Constitutional Issues.** State agency and local government actions implementing the Growth Management Act should be assessed by both staff and legal counsel. Examples of these actions include the adoption of development regulations and designations for natural resource lands and critical areas, and the adoption of development regulations that implement the comprehensive plan or establish policies or guidelines for conditions, exactions, or impact fees incident to permit approval. A similar assessment, by both staff and legal counsel, should be used for the conditioning or denial of permits for land use development. Other regulatory or administrative actions proposed by state agencies or directed by the Legislature should be assessed by staff and legal counsel if the actions impact private property.

4. **Incorporate Constitutional Assessments Into the Agency’s Review Process.** A constitutional assessment should be incorporated into the local government’s or state agency’s process for reviewing proposed regulatory or administrative actions. The nature and extent of the assessment necessarily will depend on the type of regulatory action and the specific impacts on private property. Consequently, each agency should have some discretion to determine the extent and the form of the constitutional assessment. For some types of actions, the assessment might focus on a specific piece of property. For others, it may be useful to consider the potential impacts on types of property or geographic areas. It may be necessary to coordinate the assessment with another jurisdiction where private property is subject to regulation by multiple jurisdictions. It is strongly suggested, however, that any government regulatory actions which

Recommended process:

1. *Review and distribute this Advisory Memorandum to legal counsel, decision makers, and key staff.*
2. *Use the “Warning Signals” to evaluate proposed regulatory actions.*
3. *Develop an internal process for assessing constitutional issues.*
4. *Incorporate constitutional assessments into the agency’s review process.*
5. *Develop an internal process for responding to constitutional issues identified during the review process.*

involve warning signals be carefully and thoroughly reviewed by legal counsel. The Legislature has specifically affirmed that this assessment process is protected by the normal attorney-client privilege. RCW 36.70A.370(4).

5. Develop an Internal Process for Responding to Constitutional Issues Identified During the Review Process. If the constitutional assessment indicates a proposed regulatory or administrative action could result in an unconstitutional taking of private property or a violation of substantive due process, the state agency or local government should have a process established through which it can evaluate options for less restrictive action or—if necessary, authorized, and appropriate—consider whether to initiate formal condemnation proceedings to appropriate the property and pay just compensation for the property acquired.

■ ***Part Two: General Constitutional Principles Governing Takings and Substantive Due Process***

A. Overview

“Police Power.” State governments have the authority and responsibility to protect the public health, safety, and welfare. This authority is an inherent attribute of state governmental sovereignty and is shared with local governments in Washington under the state constitution. Pursuant to that authority, which is called the “police power,” the government has the ability to regulate or limit the use of property.

Government has the authority and responsibility to protect the public health, safety, and welfare.

Police power actions undertaken by the government may involve the abatement of public nuisances, the termination of illegal activities, and the establishment of building codes, safety standards, and sanitary requirements. Government does not have to wait to act until a problem has actually manifested itself. It may anticipate problems and establish conditions or requirements limiting uses of property that may have adverse impacts on public health, safety, and welfare.

Sometimes the exercise of government police powers takes the form of limitations on the use of private property. Those limitations may be imposed through general land use planning mechanisms such as zoning ordinances, development regulations, setback requirements, environmental regulations, and other similar regulatory limitations. Regulatory activity may also involve the use of permit conditions that dedicate a portion of the property to mitigate identifiable impacts associated with some proposed use of private property.

Regulatory Takings. Government regulation of property is a necessary and accepted aspect of modern society and the constitutional principles discussed in this *Advisory Memorandum* do not require compensation for every decline in the value of a piece of private property. Nevertheless, courts have recognized that if government regulations go “too far,” they may constitute a taking of property. This does not necessarily mean that the regulatory activity is unlawful, but rather that the payment of just compensation may be required under the state or federal constitution. The rationale is based upon the notion that some regulations are so severe in their impact that they are the functional equivalent of an exercise of the government’s power of eminent domain (i.e., the formal condemnation of property for a public purpose that requires the payment of “just compensation”). Courts often refer to this as an instance where regulation

goes so far as to acquire a public benefit (rather than preventing some harm) in circumstances where fairness and justice require the public as a whole to bear that cost rather than the individual property owner.

When evaluating whether government action has gone too far, resulting in a taking of specific private property, courts typically engage in a detailed factual inquiry that evaluates and balances the government's intended purpose, the means the government used to accomplish that purpose, and the financial impact on the property. Severe financial impacts, unclear government purposes, or less intrusive means for accomplishing the identified purpose are factors that can tip the scale in favor of a determination that the government has taken property. The mere presence of these factors does not necessarily establish a taking of property, but may support a taking claim if they are significant enough, either individually or collectively. They should be carefully considered and evaluated, along with the *Warning Signals* in part three of this *Advisory Memorandum*, to determine if another course of action would achieve the government's purpose without raising the same concerns.

A government regulation that is so severe in its impact that it is the functional equivalent of condemnation requires the payment of just compensation.

In some limited cases, courts may find that a taking has occurred without engaging in the detailed factual inquiry and balancing of interests discussed above. For example, where government regulation results in some permanent or recurring physical occupation of property, a taking probably exists, requiring the payment of just compensation. In addition, where government regulation permanently deprives an entire piece of property of all economic utility, and where there is no long-standing legal principle such as a nuisance law that supports the government regulation, then a taking probably has occurred, requiring the payment of just compensation.

Substantive Due Process. Washington courts have applied principles of substantive due process as an alternate inquiry where government action has an appreciable impact on property. A land use regulation that does not have the effect of taking private property may nonetheless be unconstitutional if it violates principles of substantive due process. Substantive due process is the constitutional doctrine that legislation must be fair and reasonable in content and designed so that it furthers a legitimate governmental objective. The doctrine of substantive due process is based on the recognition that the social compact upon which our government is founded provides protections beyond those that are expressly stated in the U.S. Constitution against the flagrant abuse of government power. *Calder v. Bull*, 3 U.S. 386 (1798).

Courts have determined that substantive due process is violated when a government action lacks any reasonable justification or fails to advance a legitimate governmental objective. To withstand a claim that principles of substantive due process have been violated, a government action must (1) serve a legitimate governmental objective, (2) use means that are reasonably necessary to achieve that objective, and (3) not be unduly oppressive. Violation of substantive due process requires invalidation of the violating government action rather than the payment of just compensation.

B. Constitutional Principles Relating to the Regulation of Private Property

Courts have used a number of constitutional principles to determine whether a given government regulation effects a "taking" under the federal or state constitutions and whether it violates principles of substantive due process. The following paragraphs summarize the key legal and procedural principles.

1. Constitutional Provisions

United States Constitution — Takings Clause and Due Process Clauses. The Fifth Amendment to the United States Constitution provides that private property shall not be taken for public use without the payment of just compensation. Accordingly, the government may not take property except for public purposes within its constitutional authority and must provide just compensation for the property that has been taken. The Fifth and Fourteenth Amendments also provide that no person shall be deprived of property without due process of law.

Washington State Constitution, Article 1, Section 16. Article 1, section 16 of the Washington State Constitution provides, in part, that “[n]o private property shall be taken or damaged for public or private use without just compensation.” In other words, the government may take private property, but must pay just compensation for the private property that is taken.

The Washington Constitution provides that “[n]o private property shall be taken or damaged for public or private use without just compensation.”

Article 1, Section 16 also expressly prohibits state and local governments from taking private property for a private use with a few limited exceptions: private ways of necessity and drainage for agricultural, domestic or sanitary purposes. This provision goes beyond the U.S. Constitution, which does not have a separate provision expressly prohibiting the taking of private property for private use. As discussed below, this clause has been interpreted to prevent the condemnation of property as part of a government redevelopment plan where the property is to be transferred to a private entity.

2. The Exercise of Eminent Domain - Condemnation Proceedings.

Through the exercise of eminent domain, government has the power to condemn private property for public use, as long as it pays just compensation for the property it acquires. Taking land to build a public road is a classic example of when the government must provide just compensation to a private property owner for its exercise of the power of eminent domain.

Government historically acquires property and compensates landowners through a condemnation proceeding in which the appropriate amount of compensation is determined and paid before the land is taken and used by government. The property generally may be condemned only for public use. Washington’s Constitution has been interpreted narrowly in this regard and prohibits condemnation actions that are part of a plan to transfer property to private developers for redevelopment projects that involve private ownership of the developed property. The only exception to the public use requirement is that private property may be taken for private ways of necessity, and for drains, flumes, or ditches on or across the lands of others for agricultural, domestic, or sanitary purposes.

In Washington, property generally may be condemned only for a public use.

The Legislature has enacted a number of statutes specifying which state and local government agencies possess authority to acquire property through condemnation and

setting forth the procedures that must be followed during condemnation. *See* Title 8 RCW. Washington law provides that, in some cases, property may be taken immediately with compensation being determined and paid in a subsequent judicial proceeding or by agreement between the government and landowner. *See* RCW 8.04.090.

3. Inverse Condemnation.

There may be times where the government does not intend to acquire property through condemnation, but the government action nonetheless has a significant impact on the value of property. In some cases, the government may argue that its action has not taken or damaged private property, while the property owner argues that a taking has effectively occurred despite the fact that a formal condemnation process has not been instituted. This dispute may lead to an “inverse condemnation” claim, and the filing of a lawsuit against the government, in which the court will determine whether the government’s actions have damaged or taken property. If a court determines that the government’s actions have effectively taken private property for some public purpose, it will award the payment of just compensation, together with the costs and attorneys fees associated with litigating that inverse condemnation claim. Inverse condemnation cases generally fall into two categories: those involving physical occupation or damage to property; and those involving the impacts of regulation on property.

a. Physical Occupation or Damage. The government may be required to pay just compensation to private property owners whose land has been physically occupied or damaged by the government on a permanent or ongoing basis. For example, if the construction of a public road blocks access to an adjacent business resulting in a significant loss of business, the owner may be entitled to just compensation for “damage” to the property.

b. Regulatory Takings. In general, zoning laws and related regulation of land use activities are lawful exercises of police powers that serve the general public good. However, the state and federal constitutions have been interpreted by courts to recognize that regulations purporting to be a valid exercise of police power still must be examined to determine whether they unlawfully take private property for public use without providing just compensation. This relationship between takings law and regulation is sometimes explained as looking at whether a regulation has the effect of forcing certain landowners to provide an affirmative benefit for the public, when the burden of providing that benefit is one that should actually be carried by society as a whole.

In general, zoning laws and related regulation of land use activities are lawful exercises of police powers that serve the general public good. However, the state and federal constitutions have been interpreted by courts to recognize that regulations purporting to be a valid exercise of police power must still be examined to determine whether they unlawfully take private property for public use without providing just compensation.

The issue is how to identify just when a specific regulation may exceed constitutional limits. When there is a question of regulatory taking, the inquiry often focuses on the nature and purpose of the government regulation, the means used to

achieve it, and the effect of the regulation on legitimate and established expectations for the use of private property.

To better explain when a regulation unlawfully takes property, this section briefly describes three major types of regulatory takings challenges: (1) challenges alleging a categorical taking, (2) challenges that require a court to balance the governmental interest against the effect on particular private property, and (3) challenges to permit conditions that exact some interest in property.

(1) Challenges Alleging a Categorical Taking. Certain forms of government action are characterized as “categorical” or “per se” takings. In these circumstances the government action is presumptively classified as a taking of private property for public use for which the payment of just compensation is required. The court does not engage in the typical takings analysis involving a detailed factual inquiry that weighs the utility of the government’s purpose against the impact experienced by the landowner.

Physical occupations of property are the most well-understood type of categorical taking. When the government permanently or repeatedly physically occupies property, or authorizes another person to do the same, this occupation has been characterized as such a substantial interference with property that it always constitutes a taking requiring the payment of just compensation, even if the amount of compensation is small.

A regulation that deprives a landowner of all economic or beneficial use of property or that destroys a fundamental property right (such as the right to possess the property, the right to exclude others, or the right to dispose of the property) is the second form of categorical taking, requiring the payment of just compensation without further takings analysis. However, a regulation that prohibits all economically viable or beneficial use of property is not a taking if the government can demonstrate that the proposed use of the property that is being denied is prohibited by laws of nuisance or other long-standing and pre-existing limitations on the use of property.

Courts have emphasized that these “categorical” forms of taking arise in exceptional circumstances and that the tests are narrowly tailored to deal with these exceptional cases.

(2) Balancing the Governmental Interest Against the Effect on Particular Private Property. Ascertaining whether a government regulation goes so far as to take private property usually requires a detailed factual investigation into the purpose of the government regulation, the means used to achieve the government’s purpose, and the financial impact on the individual landowner. This analysis is often referred to as the “*Penn Central* balancing test,” because it was set forth in *Penn Central Transportation Co. v. New York City*, 438 U.S. 104 (1978). The majority of regulatory takings cases will be evaluated using this traditional multi-factor analysis – weighing the impact of government regulation against the government’s objectives and the means by which they are achieved.

If government has authority to deny a land use, it also has authority to condition a permit to engage in that use. For example, a local government may

condition a development permit by requiring measures that mitigate identifiable adverse impacts of the development. However, a permit condition that imposes substantial costs or limitations on the use of property could amount to a taking.

In assessing whether a regulation or permit condition constitutes a taking in a particular circumstance, courts weigh the public purpose of the regulatory action against the impact on the landowner's vested development rights. Courts also consider whether the government could have achieved the stated public purpose by less intrusive means. One factor used to assess the economic impact of a permit condition is the extent to which the condition interferes with a landowner's reasonable investment-backed development expectations.

The federal and state constitutions do not require the government to compensate landowners for every decline in property value associated with regulatory activity.

Most courts apply this balancing analysis using a case-by-case factual inquiry into the fairness of the government's actions. Economic impacts from regulation are usually fair and acceptable burdens associated with living in an ordered society. The federal and state constitutions do not require the government to compensate landowners for every decline in property value associated with regulatory activity. However, government action that tends to secure some affirmative public benefit rather than preventing some harm, or that is extremely burdensome to an individual's legitimate expectations regarding the use of property, or that employs a highly burdensome strategy when other less burdensome options might achieve the same public objective, raises the possibility that the action may be a taking of private property. A useful way to approach this principle is to consider whether there is any substantial similarity between a proposed regulatory action and the traditional exercise of the power to condemn property. When government regulation has the effect of appropriating private property for a public benefit rather than to prevent some harm, it may be the functional equivalent of the exercise of eminent domain. In those cases the payment of just compensation will probably be required.

When government regulation has the effect of appropriating private property for a public benefit rather than to prevent some harm, it may be the functional equivalent of the exercise of eminent domain. In those cases the payment of just compensation probably will be required.

Washington's rather detailed test for evaluating takings claims was set out by the Washington State Supreme Court in *Guimont v. Clarke*, 121 Wn.2d 586, 854 P.2d 1 (1993). See the *Appendix* in part four of this *Advisory Memorandum* for a discussion of that case.

Note: Until recently, the takings analysis also asked whether the regulation of property substantially advanced a legitimate government interest. In *Lingle v. Chevron*, 544 U.S. 248 (2005), summarized in the *Appendix*, the United States Supreme Court explained that this question is not relevant to a claim of taking by regulation. Instead, the issue of whether a regulation substantially advances a legitimate government purpose is better evaluated under principles of

substantive due process (discussed below). Washington's courts have not yet considered whether or how to modify the state's takings analysis in light of this recent U.S. Supreme Court precedent.

(3) Challenges to Permit Conditions That Exact Some Interest in Property. Sometimes a permit condition will attempt to extract some interest in property as mitigation for the adverse public impact of the proposed development. Courts have referred to these types of conditions as *exactions*. While such exactions are permissible, government must identify a real adverse impact of the proposed development and be prepared to demonstrate that the proposed exaction is reasonably related to that impact. The government also must be prepared to demonstrate that the burden on the property owner is roughly proportional to the impact being mitigated.

The limitations that are placed upon property exactions are further discussed in the *Appendix*, in the case note relating to the United States Supreme Court decision in *Dolan v. City of Tigard*, 512 U.S. 374 (1994), and in the case notes discussing some of the more recent Washington cases following *Dolan*.

4. Substantive Due Process.

Under Washington law, even if a government action does not effect a taking, it may be unconstitutional if it violates principles of substantive due process. Substantive due process invokes the due process provisions of the Fifth and Fourteenth Amendments to the U.S. Constitution to invalidate flagrant abuses of government power – actions that authorize some manifest injustice or that take away the security for personal liberty or private property that our government was formed to protect. *Calder v Bull*, 3 U.S. 386 (1798). While the remedy for a government action that works a taking is just compensation, the remedy for a government action that violates substantive due process is invalidation of the violating government action.

Under Washington law, even if a regulation does not effect a taking, it is subject to substantive due process requirements.

a. Substantive Due Process in Land Use Cases. Washington courts frequently consider both takings claims and substantive due process claims as alternative claims in the same case. In contrast, federal courts sitting in Washington have dismissed Fourteenth Amendment substantive due process claims where a remedy is available by bringing a takings claim under the Fifth Amendment Takings Clause. See *Armendariz v. Penman*, 75 F.3d 1311 (9th Cir. 1996) (en banc).

Our State Supreme Court's approach to substantive due process in a land use regulation context was first developed in *Orion Corp. v. State*, 109 Wn.2d 621, 747 P.2d 1062 (1987), *cert. denied*, 486 U.S. 1022 (1988), and *Presbytery of Seattle v. King Cy.*, 114 Wn.2d 320, 787 P.2d 907, *cert. denied*, 111 S. Ct. 284 (1990), and refined in *Guimont v. Clarke*, 121 Wn.2d 586, 854 P.2d 1 (1993), and *Margola Assoc. v. Seattle*, 121 Wn.2d 625, 854 P.2d 23 (1993). These decisions are summarized in the *Appendix* in part four of this *Advisory Memorandum*. In assessing whether a regulation has exceeded substantive due process limitations and should be invalidated, the court considers three questions. First, is the regulation aimed at achieving a legitimate public purpose? There must be a public problem or "evil" that needs to be remedied for there to be a legitimate

public purpose. Second, is the method used in the regulation reasonably necessary to achieve the public purpose? The regulation must tend to solve the public problem. Third, is the regulation unduly oppressive on the landowner? Failing to consider and address each of these questions may lead to a substantive due process violation.

The “unduly oppressive” inquiry, which has been the decisive inquiry in most Washington substantive due process cases, involves balancing the public’s interests against those of the regulated landowner. Factors to be considered in analyzing whether a regulation is unduly oppressive include (a) the nature of the harm sought to be avoided; (b) the availability and effectiveness of less drastic protective measures; and (c) the economic loss suffered by the property owner.

In assessing these factors to determine whether a land-use regulation should be invalidated as a violation of substantive due process, the Washington Supreme Court has directed trial courts to the following considerations:

On the public’s side — the seriousness of the public problem, the extent to which the owner’s land contributes to it, the degree to which the proposed regulation solves it, and the feasibility of less oppressive solutions.

On the owner’s side — the amount and percentage of value loss, the extent of remaining uses, the temporary or permanent nature of the regulation, the extent to which the owner should have anticipated such regulation, and how feasible it is for the owner to alter present or currently planned uses.

b. *Substantive Due Process and Retroactive Legislation.* A statute or regulation may attempt to impose new standards for previously-authorized conduct or may attempt to remedy newly-discovered impacts from conduct that was previously legal. The requirements of substantive due process do not automatically prohibit such retroactive legislative action so long as it serves a rational purpose. However, retroactive legislation is generally not favored because “elementary considerations of fairness dictate that individuals should have an opportunity to know what the law is and to conform their conduct accordingly; settled expectations should not be lightly disrupted.” *Landgraf v. USI Film Products*, 511 U.S. 244, 265 (1994).

In light of the substantive due process principles discussed above, Washington courts tend to apply a stricter standard of rationality to retroactive legislation than to prospective legislation. The fact that legislation may be rational when applied prospectively does not mean it will necessarily be rational when applied retroactively. There must be some independent rational basis for the retroactivity itself. Some of the additional factors to consider when evaluating the retroactivity of legislation include the following:

Whether there is a direct relationship between the conduct of the landowner and the “harm” that is being remedied.

Whether the imposed “cure” is proportional to the harm being caused.

Whether the landowner could have generally anticipated that some form of retroactive regulation might occur. It appears this factor is of greater importance where there is a weak link between the landowner’s conduct and the “cure” being imposed by the government.

These standards are not individually determinative; they operate together to paint a picture that speaks to the “fairness” of retroactive regulation. *See Rhod-A-Zalea & 35th Inc. v. Snohomish Cy.*, 136 Wn.2d 1, 959 P.2d 1024 (1998).

5. Remedies.

In the usual condemnation case, the government must pay just compensation to a property owner before the property may be taken and used for a public purpose. Compensation usually is based on the fair market value of the property at the time of the taking.

In an inverse condemnation case, the payment of just compensation is due the property owner if a taking has occurred without compensation first having been paid. Compensation usually is based on the fair market value of the property actually taken, at the time of the taking. The government may also be liable for the payment of interest and the property owner’s legal expenses incurred in obtaining just compensation.

If a court determines there has been a regulatory taking, the government generally has the option of either paying just compensation or withdrawing the regulatory limitation. However, even if the regulation is withdrawn, the government might be obligated to compensate the property owner for a temporary taking of the property during the period in which the regulation was effective.

If a court determines a regulation has taken private property for private use, the court probably will invalidate the regulation rather than ordering compensation. *See Manufactured Housing Communities of Washington v. State*, 142 Wn.2d 347, 13 P.3d 183 (2000).

If a court determines there has been a substantive due process violation, the appropriate remedy is invalidation of the regulation. *See Guimont v. Clarke*, 121 Wn.2d 586, 854 P.2d 1 (1993). A prevailing landowner who also proves that the government’s actions were irrational or invidious may recover damages and reasonable attorney’s fees under the Federal Civil Rights Act, 42 U.S.C. § 1983.

If a court determines there has been a regulatory taking, the government generally has the option of either paying just compensation or withdrawing the regulatory limitation.

If a court determines a regulation has taken private property for private use, the court probably will invalidate the regulation rather than ordering compensation.

If a court determines there has been a substantive due process violation, the appropriate remedy is invalidation of the regulation.

In addition to the causes of action and remedies discussed above, under Washington law, a property owner who has filed an application for a permit may also have a cause of action for damages to obtain relief from government actions that were arbitrary, capricious, or made with the knowledge that the actions were in excess of lawful authority. *See RCW 64.40*. This statute also provides relief for failure to act within the time limits established by law.

6. Burdens of Proof and Prerequisites to the Filing of a Claim.

A person challenging an action or ordinance generally has the burden of proving that the action or ordinance is unconstitutional. However, in a challenge to a government exaction of land to mitigate for adverse impacts from a proposed land use activity, the burden is on the government to identify a specific impact that needs to be mitigated and demonstrate that the exaction is roughly proportional to the identifiable impact.

A claim that property has been taken may not be brought until the landowner has exhausted all administrative remedies and explored all regulatory alternatives. This means that the landowner generally must submit an application and pursue available administrative appeals of any action that the landowner contends is erroneous. Furthermore, the landowner must allow the planning or regulatory agency to explore the full breadth of the agency's discretion to allow some productive use of property. This may include seeking variances and submitting several applications to determine the full extent to which the regulatory laws may allow or limit development. However, the landowner should not be made to explore futile options that have no practical chance of providing some meaningful use of the land. Once the government comes forward with evidence that there are regulatory options which might provide for some use of the land, the landowner has a heavy burden to show that pursuing these options would be futile. *See Estate of Friedman v. Pierce Cy.*, 112 Wn.2d 68, 768 P.2d 462 (1989).

A claim that property has been taken may not be brought until the landowner has exhausted all administrative remedies and regulatory alternatives.

In some cases a landowner may pursue a "facial challenge" to a law, claiming that the mere enactment of legislation results in a taking or violates due process. These are difficult cases to make because legislation is presumed constitutional and the landowner must demonstrate that under every conceivable set of facts the challenged legislation is constitutionally defective. *See Manufactured Housing Communities of Washington v. State*, 142 Wn.2d 347, 13 P.3d 183 (2000).

Part Three: Warning Signals

The following warning signals are examples of situations that may raise constitutional issues. The warning signals are phrased as questions that state agency or local government staff can use to evaluate the potential impact of a regulatory action on private property.

State agencies and local governments should use these warning signals as a checklist to determine whether a regulatory action may raise constitutional questions and require further review.

The fact that a warning signal may be present does not mean there has been a taking or substantive due process violation. It means only that there *could* be a constitutional issue and that staff should carefully review the proposed action with legal counsel. If property is subject to the regulatory jurisdiction of multiple government agencies, each agency should be sensitive to the cumulative impacts of the various regulatory restrictions.

The presence of a warning signal means there could be a constitutional issue that government staff should review with legal counsel.

1. Does the Regulation or Action Result in a Permanent or Temporary Physical Occupation of Private Property? Government regulation or action resulting in a permanent physical occupation of all or a portion of private property generally will constitute a taking. For example, a regulation requiring landlords to allow the installation of cable television boxes in their apartments was found to constitute a taking, even though the landlords suffered no economic loss. *See Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419 (1982).

This is one of two “categorical” forms of property takings. It does not require any investigation into the character of or justification for the government’s actions. It is premised upon the belief that a permanent physical occupation is such an unusual and severe impact on property that it will always be treated as an action that requires the payment of just compensation. However, because this is such a strict and narrow test, it applies only when the government physically occupies the property or provides another person the right to do so.

2. Does the Regulation or Action Deprive the Owner of All Economically Viable Uses of the Property? If a regulation or action permanently eliminates all economically viable or beneficial uses of the property, it will likely constitute a taking. In this situation, the government can avoid liability for just compensation only if it can demonstrate that the proposed uses are prohibited by the laws of nuisance or other pre-existing limitations on the use of the property. *See Lucas v. South Carolina Coastal Coun.*, 505 U.S. 1003 (1992).

This is the other narrow categorical form of taking that does not balance the government’s interests in regulation against the impact of regulation. However, in this circumstance, unlike the permanent physical occupation analysis, it is necessary to evaluate the regulation’s economic impact on the property as a whole, and not just on the portion of the property being regulated. Accordingly, it is important to assess whether there is any profitable use of the remaining property available. *See, e.g., Florida Rock Industr., Inc. v. United States*, 791 F.2d 893 (Fed Cir. 1986). The existence of some economically viable use of the property will preclude the use of this categorical test. Furthermore, the remaining use does not necessarily have to be the owner’s planned use, a prior use, or the highest and best use of the property. However, the fact that some value remains does not preclude the possibility that the regulatory action might still be a taking of property under other takings tests that balance economic impact against other factors.

A regulation must be analyzed for its economic impact on the property as a whole, not just the portion being regulated.

Regulations or actions that require all of a particular parcel of land be left substantially in its natural state should be reviewed carefully.

In some situations, pre-existing limitations on the use of property could insulate the government from takings liability even though the regulatory action ends up leaving the property with no value. For example, limitations on the use of tidelands under the public trust doctrine probably constitute a pre-existing limitation on the use of property that could insulate the government from takings liability for prohibiting development on tidelands. *See Esplanade Properties, LLC v. City of Seattle*, 307 F.3d 978, 983 (9th Cir. 2002); *Orion Corp. v. State*, 109 Wn.2d 621, 747 P.2d 1062 (1987), *cert. denied*, 486 U.S. 1022 (1988). A proposed land use that is precluded by principles of nuisance law is another example. However, the U.S. Supreme Court has made it clear that this principle does not apply simply because the property was acquired after a regulation prohibiting some land use was enacted. *See Palazzolo v. Rhode*

Island, 533 U.S. 606 (2001). A pre-existing limitation on the use of property must be a long-standing property or land use principle before it will effectively insulate the government from takings liability in those rare cases where the property is left with no value. The pre-existing nature of any regulation that limits the use of property may be an important consideration for other takings tests, however, because it may demonstrate whether the landowner had a reasonable expectation of using the property in some manner. This issue should be carefully evaluated with legal counsel.

3. ***Does the Regulation or Action Deny or Substantially Diminish a Fundamental Attribute of Property Ownership?*** Regulations or actions that deny or impair a landowner's ability to exercise a fundamental attribute of property ownership are potential takings which should be analyzed further. The fundamental attributes of property ownership are generally identified as the right to own or possess the property, the right to exclude others from the property, and the right to transfer the property to someone else. *See Guimont v. Clarke*, 121 Wn.2d 586, 854 P.2d 1 (1993). For example, regulations that prevent property from being inherited have been found to destroy a fundamental property attribute.

4. ***Does the Regulation or Action Require a Property Owner to Dedicate a Portion of Property or to Grant an Easement?*** Regulation that requires a private property owner to formally dedicate land to some public use or that extracts an easement should be carefully reviewed. The dedication or easement that is required from the landowner must be reasonable and proportional — i.e., specifically designed to mitigate adverse impacts of a proposed development. Ultimately, the government must demonstrate that it acted reasonably, and that its actions are proportionate to an identifiable problem. Usually, the burden is on the government to identify the problem and demonstrate the reasonableness and proportionality of its regulation.

5. ***Does the Regulatory Action Have a Severe Impact on the Landowner's Economic Interest?*** Courts have acknowledged that regulations are a necessary part of an ordered society and that they may limit the use of property, thereby impacting its value. Such reductions in value do not necessarily require the payment of compensation under either the federal or state constitutions. Nor do they necessarily violate substantive due process. However, if a regulation or regulatory action is likely to result in a substantial reduction in property value, the agency should consider the possibility that a taking or a violation of substantive due process may occur. If the regulation or regulatory action acts more to provide a public benefit than to prevent a public harm, it should be evaluated using the takings analysis discussed below. If it acts more to prevent a public harm, it is probably not a taking, but should nonetheless be evaluated using the substantive due process analysis discussed below. Because government actions often are characterized in terms of overall fairness, a taking or violation of substantive due process is more likely to be found when it appears that a single property owner is being forced to bear the burden of addressing some societal concern when in all fairness the cost ought to be shared across society.

a. ***Factors to Consider in a Regulatory Takings Analysis.*** Regulatory action that deprives property of all value constitutes a taking of that property. Where there is less than a complete deprivation of all value, a court will evaluate whether a taking has occurred by balancing the economic impact against two other factors: (1) the extent to which the government's action impacts legitimate and long-standing expectations about the use of the property; and (2) the character of the government's actions — is there an important interest at stake and has the government tended to use the least intrusive means to achieve that objective?

Other factors to consider include the presence or absence of reciprocal benefits and the manner in which the costs and benefits of regulations are shared. For example, zoning regulations may eliminate some profitable uses of property while simultaneously preserving or enhancing property value by limiting development activities (e.g., preventing industrial operations in residential neighborhoods).

As with other analyses of economic impact where a taking is alleged, this evaluation of economic impact and balancing of other factors is normally applied to the property as a whole, not just the portion subject to regulation.

b. Factors to Consider in a Substantive Due Process Analysis. Substantive due process principles require the government to ensure that its actions are reasonably designed to advance a legitimate state interest. To determine whether the government action is reasonable, a court will consider the relation between the government's purpose and the burden on the landowner. To what extent does the landowner's land contribute to the problem the government is attempting to solve? How far will the proposed regulation or action go toward solving the problem? A court will also want to know if less oppressive solutions are feasible.

Often a key question is the amount by which the value of the owner's property will be decreased by the government's action. In evaluating this loss in property value, a court will look at both the absolute decrease in value of the property and the percentage this decrease comprises of the total value of the property.

Another factor to consider is how the owner's plans for the property are affected by the proposed government action. What uses remain after the proposed action? Is the regulation temporary or permanent? Should the owner have been able to anticipate the regulation? How feasible is it for the owner to alter present or planned uses?

Conclusion

Ultimately, the people of Washington State are best served when state and local governments aspire to adopt the fairest possible approaches for accomplishing important public purposes. We therefore encourage government decision-makers to seek effective regulatory approaches that fairly consider both the public interests and the interests of private property owners, while using these guidelines to avoid unconstitutional regulation.

The people of Washington are best served when governments aspire to adopt the fairest possible approaches for accomplishing important public policy purposes.

CITY OF MARYSVILLE
Marysville, Washington

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON RELATED TO MOBILE/MANUFACTURED HOUSING, AMENDING SECTION 19.04.020 ZONES AND MAP DESIGNATIONS ESTABLISHED; AMENDING SECTION 19.04.080 RESIDENTIAL ZONE; AMENDING SECTION 19.08.030 RESIDENTIAL LAND USES AND AMENDING FOOTNOTES 1; 24; 25 AND 26; AMENDING SECTION 19.08.040 RECREATION/CULTURAL LAND USES AND AMENDING FOOTNOTE 1a; AMENDING SECTION 19.08.050 GENERAL SERVICES LAND USES; AMENDING 19.08.060 GOVERNMENT/BUSINESS SERVICE LAND USES; AMENDING 19.08.100 REGIONAL LAND USES; AMENDING 19.38.030 MOBILE/MANUFACTURED HOME PARK ZONE; AND AMENDING 19.38.150 STANDARDS FOR EXISTING PARKS.

WHEREAS, the City Council of the City of Marysville does find that from time to time it is necessary and appropriate to review and revise provisions of the City's Zoning Code (Title 19 MMC); and

WHEREAS, following a comprehensive review of the above-referenced City codes by City staff, the Marysville Planning Commission held public workshop(s) on April 13, 2010; May 11, 2010; and May 25, 2010; and

WHEREAS, after providing notice to the public as required by law, on June 22, 2010 the Marysville Planning Commission held a public hearing on proposed changes to the Zoning code and received public input and comment on said proposed revisions; and

WHEREAS, the City has submitted the proposed development regulation revisions to the Washington State Department of Community, Trade, and Economic Development as required by RCW 36.70A.106; and

WHEREAS, the City has complied with the requirements of the State Environmental Policy Act, Ch. 43.21C RCW, (SEPA) by issuing Addendum # 18 to the final environmental impact statement (FEIS) for the 2005 City of Marysville Comprehensive Plan for the proposed amendments to Title 19 MMC, and the addendum will not significantly change the analysis contained in the FEIS prepared in 2005 for the comprehensive plan, and will not identify new or significantly different environmental impacts; and

WHEREAS, at a public meeting on October 25, 2010 the Marysville City Council reviewed and considered the amendments to the Zoning code proposed by the Maryville Planning Commission;

WHEREAS, the Washington State Attorney General's memorandum of December 2006 entitled Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property to help local governments avoid the unconstitutional taking of private property was considered; and

WHEREAS, the City Council has considered and assessed potential constitutional issues related to the regulations proposed by this ordinance, including but limited to : whether the proposed regulations will result in a permanent or temporary physical occupation of private property; whether the proposed regulations will deprive affected property owners of all economically

viable uses of their properties; whether the proposed regulations will deny or substantially diminish a fundamental attribute of property ownership; whether the proposed regulations required a property owner to dedicate a portion of property or to grant an easement; and whether the proposed regulations will have a severe impact on the property owner's economic interests; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Amending Section 19.04.020 'Zones and map designations established' to read as follows:

19.04.020 Zones and map designations established.

In order to accomplish the purposes of this title, the following zoning designations and zoning map symbols are established:

ZONING DESIGNATIONS	MAP SYMBOL
Rural Use	RU (2.3-acre)
Residential	R (base density in dwellings per acre) R-MHP
Neighborhood Business	NB
Community Business	CB
General Commercial	GC
Downtown Commercial	DC
Mixed Use	MU
Light Industrial	LI
General Industrial	GI
Business Park	BP
Recreation	REC
Public/Institutional Zone	P/I
Waterfront Overlay	-WF (suffix to zone's map symbol)
Small Farms Overlay	-SF (suffix to zone's map symbol)
Property-specific development standards	-P (suffix to zone's map symbol)

Section 2. Amending Section 19.04.080 'Residential zone' to read as follows:

19.04.080 Residential zone.

(1) The purpose of the residential zone (R) is to implement comprehensive plan goals and policies for housing quality, diversity and affordability, and to efficiently use residential land, public services and energy. These purposes are accomplished by:

(a) Providing, in the R-4.5, R-6.5, and R-8 zones, for a mix of predominantly single detached dwelling units and other development types, with a variety of densities and sizes in locations appropriate for urban densities;

(b) Providing, in the R-12, R-18, and R-28 zones, for a mix of predominantly apartment and townhome dwelling units and other development types, with a variety of densities and sizes in locations appropriate for urban densities;

(c) Providing and preserving high density, affordable detached single-family and senior housing. This zone is assigned to existing mobile home parks within residential zones which contain rental pads, as opposed to fee simple owned lots, and as such are more susceptible to future development.

(d) Allowing only those accessory and complementary nonresidential uses that are compatible with residential communities; and

(e) Establishing density designations to facilitate advanced area-wide planning for public facilities and services, and to protect environmentally sensitive sites from overdevelopment.

(2) Use of this zone is appropriate in residential areas designated by the comprehensive plan as follows:

(a) Urban lands that are served at the time of development, by adequate public sewers, water supply, roads and other needed public facilities and services; and

(b) The corresponding comprehensive plan designations are as follows:

R-4.5	=	Medium density single-family
R-6.5	=	High density single-family
R-8	=	High density single-family, small lot
R-12	=	Low density multiple-family
R-18	=	Medium density multiple-family
R-28	=	High density multiple-family

Section 3. Amending Section 19.08.030 'Residential land uses and footnotes 1, 24, 25, and 26 to read as follows:

19.08.030 Residential land uses.

(1) Table.

Specific Land Use													
	RU	R 4.5- 8	R 12- 28	NB	CB	GC	DC	MU	BP	LI	GI	P/I	R- MHP
Dwelling Units, Types:													
Single detached (22)	P18	P18	P18										P24
Cottage housing		C7	C7										
Duplex (22)	P	P11, C	P										
Townhouse		P3	P				P17	P					
Multiple-family			P	C9	P9, C15	P9, C15	P9, P17	P					
Mobile home	P19	P19, C3	P19	P19	P19	P19	P19	P19	P19	P19	P19		P19
Mobile/Manufactured home park	C		C14, P			P							P26
Senior citizen assisted		C2	C2	P				C				P	C2
Factory-built	P10	P10	P10										P10,24
Guesthouse	P6												
Caretaker's quarters (8)					P	P	P		P	P	P	P	
Recreational Vehicle													P25
Group Residences:													
Adult family home	P	P	P	P	P	P	P	P				P	P
Convalescent, nursing, retirement		C2	C2	C	P	P	P	P				P	
Residential care facility	P	P	P	P	P	P	P	P				P	
Master planned senior community		C	C	C	C	C	C	C				C	C

(23)														
Accessory Uses:														
Residential accessory uses (1) (12) (16)	P	P	P											P
Home occupation (5)	P	P	P20	P20	P20, P21	P20, P21	P20, P21	P20, P21	P21	P21	P21			P
Temporary Lodging:														
Hotel/motel			P	P	P	P	P	P	P	P				
Bed and breakfast guesthouse (4)	C	C13	P											
Bed and breakfast inn (4)	C		P	P	P	P								

(2) Development Conditions.

1. Accessory dwelling units must comply with development standards in MMC 19.34.030, Accessory dwelling unit standards. Accessory dwelling units in the MHP zone are only allowed on single lots of record containing one single-family detached dwelling.
24. One single-family detached dwelling per existing single lot of record. Manufactured homes on single lots must meet the criteria outlined in footnote 18 above.
25. Used as a permanent residence in an established MHP or RV park provided that utility hook ups in MHPs meet current standards for MHPs or RV parks.
26. Shall fulfill requirements of Chapter 19.38 MMC.

Section 4, Amending Section 19.08.040 'Recreation/cultural land uses' and footnote 1a to read as follows:

19.08.040 Recreation/cultural land uses.

(1) Table.

Specific Land Use														
	RU	R 4.5-8	R 12-28	NB	CB	GC	DC	MU	BP	LI	GI	REC	P/I	R-MHP
Park/Recreation:														
Park	P1	P1	P1	P1	P	P	P	P	P	P	P	P1	P	P1
Marina							P				P	C	P	

Dock and boathouse, private, noncommercial	P6						P				P	P6	P	
Recreational vehicle park						C2				C2		C	P	C2
Boat launch, commercial or public							P				P		P	
Boat launch, noncommercial or private	C7						P				P	P7	P	
Community center		C	C	P	P	P	P	P	P	P	P	P	P	C
Amusement/Entertainment:														
Theater					P	P	P	P						
Theater, drive-in						C								
Amusement and recreation services					P8	P8	P8	P9	P	P	C			
Sports club			C	P	P	P	P	P	P	P	P			
Golf facility (3)	C	C	P		P	P			P	P	P	C		
Shooting range (4)	C					P5			P5	P5				
Outdoor performance center	C					C				C		C	C	
Riding academy	C								P	P		C		
Cultural:														
Library, museum and art gallery	C	C	C	P	P	P	P	P	P	P	P	C	P	C
Church, synagogue and temple	C	C	P	P	P	P	P	P	P	P	P		P	C
Dancing, music and art center					P	P	P	P				C	P	

(2) Development Conditions.

1. The following conditions and limitations shall apply, where appropriate:
 - a. Parks are permitted in residential and mixed use zones when reviewed as part of a subdivision, mobile/manufactured home park, or multiple-family development proposal; otherwise a conditional use permit is required;
 - b. Lighting for structures and fields shall be directed away from residential areas; and
 - c. Structures or service yards shall maintain a minimum distance of 50 feet from property lines adjoining residential zones.

Section 5. Amending Section 19.08.050 'General Service land uses' to read as follows:

19.08.050 General services land uses.

(1) Table.

Specific Land Use	RU	R 4.5- 8	R 12- 28	NB	CB	GC	DC	MU	BP	LI	GI	P/I	R- MHP
Personal Services:													
General personal service				P	P	P	P	P	P	P	P		
Dry cleaning plant					P					P	P		
Dry cleaning pick-up station and retail service				P	P	P	P	P12		P	P		
Funeral home/crematory		C1	C1		P	P	P	P13	P	P	P		C1
Cemetery, columbarium or mausoleum	P10 C2	P10 C2	P10 C2	P10	P10	P10 C2			P	P	P		P10 C2
Day care I	P3	P3	P3	P	P	P		P		P4			P3
Day care II		C16	C	P	P	P	P	P	P4	P4			C16
Veterinary clinic	C			P	P	P	P	P	P	P	P		
Automotive repair and service				P5	C, P15	P			P	P	P		
Miscellaneous repair					P	P				P	P		
Social services	C11				P	P	P	P				P	
Stable	C	C											
Kennel or cattery, hobby	P	C	C										
Kennel, commercial and exhibitor/breeding	C				P	P			C	P	P		
Civic, social and fraternal association	C				P	P	P	C	P		P	P	
Club (community, country, yacht, etc.)	C								P		P	P	
Health Services:													
Medical/dental clinic			C	P	P	P	P	P				P	
Hospital	C				P	P	P	C				C	

ORDINANCE - 7
R-MHP Ordinance

Education Services:													
Elementary, middle/junior high, and senior high (including public, private and parochial)	C	C	C		C	C	C	C		P	C	C	C
Commercial school	C6	C6	C6	P	P		P	P14				C	
School district support facility	C9	C9	C9	C	P	P	P	P		P	P	P	
Interim recycling facility	C7	P7	P7		P8	P8				P		P	
Vocational school					P	P	P	P14				P	

Section 6. Amending Section 19.08.060 ‘Government/business land uses’ to read as follows:

19.08.060 Government/business service land uses.

(1) Table.

Specific Land Use	RU	R 4.5- 8	R 12- 28	NB	CB	GC	DC	MU	BP	LI	GI	P/I	R- MHP
Government Services:													
Public agency office	C			P	P	P	P	P	P	P	P	P	
Public utility yard						P				P		P	
Public safety facilities, including police and fire	C1	C1	C1	P1	P	P	P	P		P		P	C1
Utility facility	P	P	P	P	P	P		C	P	P	P	P	P
Private stormwater management facility	P	P	P	P	P	P	P	P	P	P	P	P	P
Public stormwater management facility	P	P	P	P	P	P	P	P	P	P	P	P	P
Business Services:													
Contractors’ office and storage yard						P2	P2	P2		P	P		

Taxi stands					P	P								
Trucking and courier service					P3	P3				P	P			
Warehousing and wholesale trade						P			P	P	P			
Self-service storage (14)			C4			P			P	P	P			
Freight and cargo service						P			P	P	P			
Cold storage warehousing										P	P			
General business service and office (9)				P	P	P	P	P2	P	P	P			
Commercial vehicle storage									P	P	P			
Professional office			C	P	P	P	P	P	P	P				
Miscellaneous equipment rental					P2, 15	C16		P2, 15		P	P			
Automotive rental and leasing						P				P				
Automotive parking	P6	P6	P6	P	P	P	P	P	P	P	P			
Research, development and testing						P			P	P	P			
Heavy equipment and truck repair										P	P			
Automobile holding yard						C				P	P			
Model house sales office	P10	P10												
Commercial/industrial accessory uses				P17, 18	P17	P17	P17, 18	P17, 18	P	P	P			
Adult facility												P8		
Factory-built commercial building (11)				P	P	P	P		P	P	P			
Wireless		P,	P,	P, C	P,	P,	P, C	P, C	P,	P,	P,	P,	P,	P,C

ORDINANCE - 9
R-M-F-P Ordinance

communication facility (5)		C	C		C	C				C	C	C	C	
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Section 6. Amending Section 19.08.100 'Regional land uses' to read as follows:

19.08.100 Regional land uses.

(1) Table.

Specific Land Use														R-MHP
	RU	R 4.5- 8	R 12- 28	NB	CB	GC	DC	MU	BP	LI	GI	P/I		
Jail					C	C			C	C				
Regional storm water management facility	C	C	C		C	C	C		C	C	C	P	C	
Public agency animal control facility	C					C				P	P	C		
Public agency training facility	C1				C1	C1		C1		C2		C2		
Nonhydroelectric generation facility	C	C	C	C	C	C				C	C	C	C	
Energy resource recovery facility	C									C				
Soil recycling/incineration facility	C									C	C			
Solid waste recycling	C										C	C		
Transfer station	C									C	C	C		
Wastewater treatment facility									C	C	C	C		
Transit bus base	C					C				P		C		
Transit park and pool lot	P	P	P	P	P	P	P	P	P	P	P	P		
Transit park and ride lot	C	C	C	P	P	P	P	P	P	P	P	C		
School bus base	C3	C3	C3	C	C	C				P		C3		
Racetrack	C	C5	C5	C5	C5	C				P				
Fairground	C								P	P	P	C		

ORDINANCE - 10
R-MHP Ordinance

Zoo/wildlife exhibit	C6				C	C						C	
Stadium/arena						C				C	P	C	
College/university	C	C	C	C	P	P	P	P	P	P	P	C	
Secure community transition facility												C7	
Opiate substitution treatment program facilities					P8, 9	P8, 9	P8, 9				P9	P9	

Section 7. Amending Section 19.38.030 ‘Mobile/manufactured home park zone’ to read as follows:

19.38.030 Mobile/ manufactured home park zone.

There is created a mobile/ manufactured home park zone (MHP) which shall be construed as an overlay classification which may be enacted for any area within the city zoned in the multiple-family residential classification (R-12-R-28) or planned residential development classification (PRD 4.5-PRD 8).

(1) Purpose. The purposes of the MHP classification are:

- (a) To provide a suitable living environment within a park-like atmosphere for persons residing in mobile/ manufactured homes;
- (b) To encourage variety in housing styles within areas designated for other residential development;
- (c) To permit flexibility in the placement of mobile/ manufactured homes on a site in order to minimize costs associated with development of roads, utilities, walkways and parking facilities, while providing adequate common and private open space.

(2) Permitted Uses. In the MHP zone the following uses are permitted:

- (a) Mobile/ manufactured home parks, subject to the requirements of this chapter;
- (b) Mobile/ manufactured homes, located only within an approved mobile/ manufactured home park;
- (c) Accessory uses and structures as provided in MMC 19.08.030(1);
- (d) Recreational facilities located within and primarily for the use of residents of an approved mobile/ manufactured home park;
- (e) Recreational vehicle and boat storage facilities located within and limited to use by residents of an approved mobile/ manufactured home park. (Ord. 2131, 1997).

Section 8. Amending Section 19.38.150 ‘Standards for existing parks’ to read as follows:

19.38.150 Standards for existing parks.

(1) Mobile home parks established prior to the effective date of this code shall continue to be governed by all standards relating to density, setbacks, landscaping and off-street parking in effect at the time they were approved;

(2) Placement of new accessory structures and replacement mobile homes, either standard or nonstandard, in these mobile home parks shall be governed by the dimensional standards in effect when the parks were approved. Where internal setbacks are not specified, the setback standards

outlined in the International Building Code (IBC) and the International Fire Code (IFC) shall apply;

(3) Recreational vehicles utilized as a permanent residence are permitted provided utility hook-ups are provided and meet current adopted standards for mobile/manufactured home parks.

(4) An existing mobile home park may be enlarged; provided, the proposed enlargement meets the standards set forth in MMC 19.38.050 through 19.38.070;

(5) Insignia mobile homes may be installed in established parks; provided, that all mobile homes supported by piers shall be fully skirted;

(6) The placement of new accessory structures and replacement mobile homes shall comply with Chapter 19.24 MMC, Sensitive Areas Management.

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2010.

CITY OF MARYSVILLE

By: _____
JON NEHRING, MAYOR

Attest:

By: _____
TRACY JEFFRIES, CITY CLERK

Approved as to form:

By: _____
GRANT K. WEED, CITY ATTORNEY

Date of Publication: _____

Effective Date: _____
(5 days after publication)

CITY OF MARYSVILLE

Marysville, Washington

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MARYSVILLE AMENDING PORTIONS OF MARYSVILLE MUNICIPAL CODE CHAPTER 5.92 RELATING TO BODY ART, BODY PIERCING AND TATTOOING OR TATTOO PARLORS AND PROVIDING FOR SEVERABILITY.

WHEREAS, the State of Washington has recently adopted revised standards regulating tattooing, licensing and licensing fees regarding tattooing in addition to already established regulations including but not limited to RCW Chapter 18.300, WAC 246-145, and WAC 308.22; and,

WHEREAS, the City of Marysville desires to update its regulations regarding Tattooing and Licensing to be consistent with State law; and,

WHEREAS, the City of Marysville wishes to streamline the licensing review and not duplicate State review adding costs to the City and the Tattoo Businesses.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Marysville Municipal Code Chapter 5.92 entitled "PUBLIC BATH HOUSES, BODY SHAMPOO PARLORS AND TATTOO PARLORS" is amended to read as follows:

Chapter 5.92	
PUBLIC BATH HOUSES, BODY SHAMPOO PARLORS AND <u>BODY ART, BODY PIERCING AND TATTOOING AND</u> TATTOO PARLORS	
Sections:	
5.92.010	Definitions.
5.92.020	License required.
5.92.030	Public bath houses, <u>and</u> body shampoo parlors and tattoo parlors licenses.
5.92.050	Public bath house manager, assistant manager and attendant licenses.
5.92.060	Body shampoo parlor manager, assistant manager and attendant licenses.
5.92.070	Tattoo parlor manager, employee and independent contractor licenses.
5.92.080	Denials of license.
5.92.090	Suspension or revocation of licenses – Notice – Summary suspension or revocation.
5.92.100	Standards of conduct and operation – Public bath house and body shampoo parlor.

~~5.92.110 Standards of conduct and operation – Tattoo parlors.~~

[5.92.120](#) Misdemeanor.

[5.92.130](#) Inspections.

[5.92.140](#) Severability.

~~5.92.150 Body Art, Body Piercing and Tattooing and Tattoo Parlors~~

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5.92.010 Definitions.

For the purposes of this chapter and unless the context plainly requires otherwise, the following definitions are adopted:

(1) “Applicant” means the individual or entity seeking a license to operate a public bath house, ~~or~~ body shampoo parlor ~~or tattoo parlor~~ in the city of Marysville. Upon issuance of a license, the applicant may be referred to as the “licensee.” An applicant shall be considered an “applicant” regardless of the form of its business organization whether proprietorship, partnership, corporation or other form, and regardless whether the organization is for profit or not. An organization may be an “applicant” even though its patrons are members, and it characterizes itself as a club, fraternal organization, church, society or otherwise.

(2) “Applicant control person” means all partners, corporate officers and directors and any other individuals in the applicant’s business organization who hold a significant interest in the business, based on responsibility for the management of the business.

(3) “Attendant” means an employee or independent contractor who is present at a public bathhouse or body shampoo parlor while a patron’s body is bathed, washed, or shampooed.

(4) “Beginning work” shall mean engaged in activities for a business required to be licensed by this chapter, whether the relationship is deemed between employer and employee or owner and independent contractor.

(5) “Body shampoo parlor” means any place open to the public where an attendant is present and a patron’s body is washed or shampooed. A body shampoo parlor shall not include any barber or beauty salon, medical facility or nursing home facility where a customer or patient may be washed, shaved and/or shampooed.

(6) “Clerk” shall mean the city clerk or deputy city clerk as appointed pursuant to the provisions of Chapter [2.30](#) MMC.

(7) “Employee” or “independent contractor” means any and all persons, including managers, who work in or at or render any services directly related to the operation of a public bath house ~~or~~ body shampoo parlor ~~or tattoo parlor~~.

(8) "Hearing examiner" shall mean the hearing examiner as appointed pursuant to the provisions of Chapter [2.70](#) MMC.

(9) "Manager" means any person who manages, directs, administers or is in charge of the affairs and/or conduct of any portion of any activity at a public bath house ~~or~~, body shampoo parlor or ~~tattoo parlor~~. An "assistant manager" shall be that person who, in the absence of the manager or jointly with the manager, shall undertake the duties of the manager as defined by this section.

(10) "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture or other entity or group of persons, however organized.

(11) "Public bath house" means any place open to the public where Russian, Turkish, Swedish, hot air, vapor, electric cabinet or other baths of any kind are given or furnished; provided, that the term "public bath house" shall not include ordinary tub baths where an attendant is not provided; and provided further, that a public bath house shall not include a club as defined by MMC 19.08.095 organized for athletic purposes, or a country club as defined by MMC 19.08.127.

~~(12) "Tattoo parlor" means any premises at which tattooing is provided as a service to the public. (Ord. 2451 § 1, 2002; Ord. 2070 § 6, 1996).~~

5.92.020 License required.

(1) It is unlawful for any person to conduct, manage or operate any of the following businesses unless such person is the holder of valid and subsisting license from the city to do so, obtained in the manner provided in this chapter: public bath house ~~or~~, body shampoo parlor, ~~or tattoo parlor~~.

(2) It is unlawful for any manager, assistant manager or attendant to begin work in a public bath house unless such person is the holder of a valid and subsisting license from the city to do so.

(3) It is unlawful for any manager, assistant manager or attendant to knowingly work in or about or to knowingly perform any service related to the operation of an unlicensed public bath house.

(4) It is unlawful for a manager, assistant manager or attendant to begin work in a body shampoo parlor unless the person is a holder of a valid and subsisting license from the city to do so.

(5) It is unlawful for a manager, assistant manager or attendant to knowingly work in or about or to knowingly perform any service directly related to the operation of an unlicensed body shampoo parlor.

~~(6) It is unlawful for a manager or an employee or independent contractor to work in a tattoo parlor unless the manager or employee or independent contractor is a holder of a valid and subsisting license from the city to do so.~~

~~(7) It is unlawful for a manager to knowingly work in or about or to knowingly perform any service related to the operation of an unlicensed tattoo parlor. (Ord. 2070 § 6, 1996).~~

5.92.030 Public bath houses and, body shampoo parlors and tattoo parlors licenses.

(1) All applications for either a public bath house or, body shampoo parlor or tattoo parlor license shall be submitted to the clerk in the name of the person or entity proposing to conduct said business and shall be signed by such person and certified as true under penalty of perjury. All applications shall be submitted on a form supplied by the city, which shall require the following information:

(a) For the applicant and for each applicant control person, provide: names, any aliases or previous names, driver's license number, if any, Social Security number, if any, and business, mailing and residential address, and business telephone number.

(b) If a partnership, whether general or limited, the names and addresses of all partners; and if a corporation, date and place of incorporation, names and addresses of all shareholders, evidence that it is in good standing under the laws of Washington, and name and address of any registered agent for service of process.

(c) Whether the applicant or any partner, corporate officer, or director of the applicant holds any other licenses under this chapter or any license for adult cabaret, adult motion picture theater, adult drive-in theater, adult panoram or bikini club from the city or another city, county or state, and if so, the names and addresses of each other licensed business.

(d) A summary of the business history of the applicant and applicant control persons in owning or operating a public bath house or, body shampoo parlor or tattoo parlor providing names, addresses and dates of operation for such businesses, and whether any business license has been revoked or suspended, and the reason therefor.

(e) For the applicant and all applicant control persons, any and all criminal convictions or forfeitures within five years immediately preceding the date of the application, other than parking offenses or minor traffic infractions including the dates of conviction, nature of the crime, name and location of court and disposition.

(f) For the applicant and all applicant control persons, a description of business, occupation or employment history for the three years immediately preceding the date of the application.

(g) Authorization for the city, its agents and employees to seek information to confirm any statements set forth in the application.

(h) The location and doing-business-as name of the proposed public bath house, ~~or~~ body shampoo parlor ~~or tattoo parlor~~ including a legal description of the property, street address, and telephone number, together with the name and address of each owner and lessee of the property.

(i) Two two-inch by two-inch color photographs of the applicant and applicant control persons, taken within six months of the date of application showing only the full face.

(j) A complete set of fingerprints for the applicant or each applicant control person taken by Marysville police department employees.

(k) A scale drawing or diagram showing the configuration of the premises for the proposed public bath house ~~or~~ body shampoo parlor ~~or tattoo parlor~~, including a statement of the total floor space occupied by the business, and marked dimensions of the interior of the premises. Performance areas, seating areas, manager's office and stations, restrooms and service areas shall be clearly marked on the drawing.

(2) An application shall be deemed complete upon the applicant's provision of all information requested above, including identification of "none" where that is the correct response, and the applicant's verification that the application is complete. The clerk may request other information or clarification in addition to that provided in a complete application where necessary to determine compliance with this chapter.

(3) A nonrefundable application fee of \$500.00 must be paid at the time of filing an application in order to defray the costs of processing the application. The annual renewal fee shall be \$300.00.

(4) Each applicant shall verify, under penalty of perjury, that the information contained in the application is true.

(5) If any person or entity acquires, subsequent to the issuance of a license under this chapter, a significant interest based on responsibility for management or operation of the licensed premises or the licensed business, notice of such acquisition shall be provided in writing to the city clerk, no later than 21 days following such acquisition. The notice required shall include the information required for the original license application.

(6) The public bath house ~~or~~ body shampoo parlor ~~or tattoo parlor~~ license, if granted, shall state on its face the name of the person or persons to whom it is issued, the expiration date, the doing-business-as name and the address of the licensed public bath house ~~or~~ body shampoo parlor ~~or tattoo parlor~~. The license shall be posted in a conspicuous place at or near the

entrance to the public bath house ~~or~~ body shampoo parlor ~~or tattoo parlor~~, so that it can be easily read at anytime the business is open.

(7) No person granted a license pursuant to this chapter shall operate the business under a name not specified on the license, nor shall any person operate a business licensed under this chapter under any designation or at any location not specified on the license. A separate license shall be required for each type of business covered by this chapter, and a separate license shall be required for each location at which a business covered by this chapter is operated. A license shall be valid for one year, and must be annually renewed.

(8) Upon receipt of the complete application and fee, the clerk shall provide copies to the police, fire and community development departments for their investigation and review to determine compliance of the proposed business with the laws and regulations which each department administers. Each department shall, within 30 days of the date of such application, inspect the application and premises and shall make a written report to the clerk whether such application and premises complies with the laws administered by each department. No license may be issued unless each department reports that the application and premises comply with the relevant laws. In the event the premises is not yet constructed, the departments shall base their recommendation as to premises compliance on their review of the drawings submitted in the application. Any license approved prior to premises construction shall contain a condition that the premises may not open for business until the premises have been inspected and determined to be in substantial conformance with the drawings submitted with the application and submitted with any application for a building permit. A department shall recommend denial of a license under this subsection if it finds that the proposed business is not in conformance with the requirements of this chapter or other law in effect in the city. A recommendation for denial shall cite the specific reason therefor, including applicable laws.

(9) A license shall be issued by the clerk within 30 days of the date of filing a complete license application and fee, unless the clerk determines that the applicant has failed to meet any of the requirements of this chapter or provide any information required under this subsection or that the applicant has made a false, misleading or fraudulent statement of material fact on the application for a license. The clerk shall grant an extension of time in which to provide all information required for a complete license application upon the request of the applicant. If the clerk finds that the applicant has failed to meet any of the requirements for issuance of a license, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable law. If the clerk fails to issue or deny the license within 30 days of the date of filing of a complete application and fee, the applicant shall be permitted, subject to all other applicable law, to operate the business for which the license was sought until notification by the clerk that the license has been denied, but in no event may the clerk extend the application review time for more than an additional 20 days. (Ord. 2070 § 6, 1996

5.92.050 Public bath house manager, assistant manager and attendant licenses.

(1) No person shall work as a manager, assistant manager, attendant at a public bath house without a manager, assistant manager, or attendant license from the city. Each applicant for a license shall complete an application on forms provided by the city containing the information identified below. A nonrefundable application fee of \$100.00 shall accompany the application for a manager or assistant manager. A nonrefundable fee of \$25.00 shall accompany the application for an attendant. A copy of the application shall be provided to the police department for its review, investigation and recommendation. All applications shall be signed by the applicant and certified to be true under penalty of perjury. Each license application shall require the following information:

(a) The applicant's name, home address, home telephone number, date and place of birth, fingerprints taken by Marysville police department employees, and Social Security number.

(b) The name and address of each business at which the applicant intends to work.

(c) Documentation that the applicant has attained the age of 18 years. Any two of the following shall be accepted as documentation of age:

(i) A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;

(ii) A state-issued identification card bearing the applicant's photograph and date of birth;

(iii) An official passport issued by the United States of America;

(iv) An immigration card issued by the United States of America; or

(v) Any other identification that the city determines to be acceptable.

(d) A complete statement of all convictions of the applicant for any misdemeanor or felony violations in this or any other city, county, or state within five years immediately preceding the date of the application, except parking violations or minor traffic infractions.

(e) A description of the applicant's principal activities or services to be rendered.

(f) Two two-inch by two-inch color photographs of applicant, taken within six months of the date of application showing only the full face.

(g) Authorization for the city, its agents and employees to investigate and confirm any statements set forth in the application.

(h) Each person licensed by this section shall provide a copy of his or her license to the manager on duty on the premises where said person works. The manager shall retain the copy of the licenses readily available for inspection by the city at any time during business hours of the public bath house.

(2) The clerk may request additional information or clarification when necessary to determine compliance with this chapter.

(3) A license shall be issued by the clerk within 14 days from the date the complete application and fee are received unless the clerk determines that the applicant has failed to provide any information required to be supplied according to this chapter, has made any false, misleading or fraudulent statement of material fact in the application, or has failed to meet any of the requirements for issuance of a license under this chapter. If the clerk determines that the applicant has failed to qualify for the license applied for, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws. If the clerk has failed to approve or deny an application for license within 14 days of filing of a complete application, the applicant may, subject to all other applicable laws, commence work until notified by the clerk that the license has been denied, but in no event may the clerk extend the application review time for more than an additional 20 days.

(4) A license issued under this section shall be valid for one year and must be annually renewed. The annual renewal fee for a manager or assistant manager shall be \$75.00. The annual renewal fee for an attendant shall be \$20.00. (Ord. 2070 § 6, 1996).

5.92.060 Body shampoo parlor manager, assistant manager and attendant licenses.

(1) No person shall work as a manager, assistant manager, or attendant at a body shampoo parlor without a manager, assistant manager, or attendant license from the city. Each applicant for a license shall complete an application on forms provided by the city containing the information identified below. A nonrefundable application fee of \$100.00 shall accompany the application for a manager or assistant manager. A nonrefundable fee of \$25.00 shall accompany the application for an attendant. A copy of the application shall be provided to the police department for its review, investigation and recommendation. All applications shall be signed by the applicant and certified to be true under penalty of perjury. Each license application shall require the following information:

(a) The applicant's name, home address, home telephone number, date and place of birth, fingerprints taken by Marysville police department employees, and Social Security number.

(b) The name and address of each business at which the applicant intends to work.

(c) Documentation that the applicant has attained the age of 18 years. Any two of the following shall be accepted as documentation of age:

- (i) A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;
- (ii) A state-issued identification card bearing the applicant's photograph and date of birth;
- (iii) An official passport issued by the United States of America;
- (iv) An immigration card issued by the United States of America; or
- (v) Any other identification that the city determines to be acceptable.

(d) A complete statement of all convictions of the applicant for any misdemeanor or felony violations in this or any other city, county, or state within five years immediately preceding the date of the application, except parking violations or minor traffic infractions.

(e) A description of the applicant's principal activities or services to be rendered.

(f) Two two-inch by two-inch color photographs of applicant, taken within six months of the date of application showing only the full face.

(g) Authorization for the city, its agents and employees to investigate and confirm any statements set forth in the application.

(h) Each person licensed by this section shall provide a copy of his or her license to the manager on duty on the premises where said person works. The manager shall retain the copy of the licenses readily available for inspection by the city at any time during business hours of the body shampoo parlor.

(2) The clerk may request additional information or clarification when necessary to determine compliance with this chapter.

(3) A license shall be issued by the clerk within 14 days from the date the complete application and fee are received unless the clerk determines that the applicant has failed to provide any information required to be supplied according to this chapter, has made any false, misleading or fraudulent statement of material fact in the application, or has failed to meet any of the requirements for issuance of a license under this chapter. If the clerk determines that the applicant has failed to qualify for the license applied for, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws. If the clerk has failed to approve or deny an application for license within 14 days of filing of a complete

ORDINANCE

Page 9 of 16

g/mv/M-10-088/Ord.Amend Ch 5.92 Tattoo 10 -7-10 redlined

application, the applicant may, subject to all other applicable laws, commence work until notified by the clerk that the license has been denied, but in no event may the clerk extend the application review time for more than an additional 20 days.

(4) A license issued under this section shall be valid for one year and must be annually renewed. The annual renewal fee for a manager or assistant manager shall be \$75.00. The annual renewal fee for an attendant shall be \$20.00. (Ord. 2070 § 6, 1996).

~~5.92.070 Tattoo parlor manager, employee and independent contractor licenses.~~

~~(1) No person shall work as a manager, employee or independent contractor at a tattoo parlor without a manager, employee or independent contractor license from the city. Each applicant for a license shall complete an application on forms provided by the city containing the information identified below. A nonrefundable application fee of \$100.00 shall accompany the application for a manager or assistant manager. A nonrefundable fee of \$25.00 shall accompany the application for an employee or independent contractor. A copy of the application shall be provided to the police department for its review, investigation and recommendation. All applications shall be signed by the applicant and certified to be true under penalty of perjury. Each license application shall require the following information:~~

~~(a) The applicant's name, home address, home telephone number, date and place of birth, fingerprints taken by Marysville police department employees, and Social Security number.~~

~~(b) The name and address of each business at which the applicant intends to work.~~

~~(c) Documentation that the applicant has attained the age of 18 years. Any two of the following shall be accepted as documentation of age:~~

~~(i) A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;~~

~~(ii) A state issued identification card bearing the applicant's photograph and date of birth;~~

~~(iii) An official passport issued by the United States of America;~~

~~(iv) An immigration card issued by the United States of America; or~~

~~(v) Any other identification that the city determines to be acceptable.~~

~~(d) A complete statement of all convictions of the applicant for any misdemeanor or felony violations in this or any other city, county, or state within five years immediately~~

~~preceding the date of the application, except parking violations or minor traffic infractions.~~

~~(e) A description of the applicant's principal activities or services to be rendered.~~

~~(f) Two two-inch by two-inch color photographs of applicant, taken within six months of the date of application showing only the full face.~~

~~(g) Authorization for the city, its agents and employees to investigate and confirm any statements set forth in the application.~~

~~(h) Each person licensed by this section shall provide a copy of his or her license to the manager on duty on the premises where said person works. The manager shall retain the copy of the licenses readily available for inspection by the city at any time during business hours of the tattoo parlor.~~

~~(2) The clerk may request additional information or clarification when necessary to determine compliance with this chapter.~~

~~(3) A license shall be issued by the clerk within 14 days from the date the complete application and fee are received unless the clerk determines that the applicant has failed to provide any information required to be supplied according to this chapter, has made any false, misleading or fraudulent statement of material fact in the application, or has failed to meet any of the requirements for issuance of a license under this chapter. If the clerk determines that the applicant has failed to qualify for the license applied for, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws. If the clerk has failed to approve or deny an application for license within 14 days of filing of a complete application, the applicant may, subject to all other applicable laws, commence work until notified by the clerk that the license has been denied, but in no event may the clerk extend the application review time for more than an additional 20 days.~~

~~(4) A license issued under this section shall be valid for one year and must be annually renewed. The annual renewal fee for a manager shall be \$75.00. The annual renewal fee for an employee or independent contractor shall be \$20.00. (Ord. 2070 S 6, 1996).~~

5.92.080 Denials of license.

Should the person seeking a license under this chapter disagree with the clerk's determination, the applicant must file a notice of nonacceptance with the city attorney's office within 10 working days of receipt of the notification of denial.

(1) The city shall, within five working days following receipt of the notice of nonacceptance, apply to the superior court for a judicial determination as to whether the applicant's license was

properly denied. The burden of showing that the applicant's license was properly denied shall rest on the city.

(2) If a preliminary judicial determination sustaining the city's denial of the subject license is not obtained within five working days from the date the complaint is served, an interim license shall be issued under this chapter by operation of the law. The interim license shall issue in any event if a final judicial determination on the merits is not obtained within 20 days from the date the complaint is filed. In such case, the interim license will remain in effect until a final judicial determination on the merits is reached; provided, however, that any delays caused or requested by the applicant shall be excluded from the above-mentioned 20-day period. (Ord. 2070 § 6, 1996).

5.92.090 Suspension or revocation of licenses – Notice – Summary suspension or revocation.

(1) The city clerk may suspend or revoke any license issued pursuant to this chapter for a period of time not to exceed one year where one or more of the following conditions exist:

(a) The license was procured by fraud or false representation of fact in the application or in any report or record required to be filed with the clerk;

(b) The building, structure, equipment, operation or location of the business for which the license was issued does not comply with the requirements or fails to meet the standards of this chapter;

(c) The applicant, applicant control person, manager, assistant manager, attendant, employee or independent contractor providing ~~or doing tattoos~~ has violated or permitted violation of any of the provisions of this chapter.

(2) The procedure for revoking or suspending a license under this chapter shall be the following: Upon determining that grounds for revocation or suspension exist, the city clerk shall send the licensee a notice of intent to revoke or suspend the license. Such notice shall set forth the grounds for suspension or revocation and schedule a hearing before the hearing examiner. The hearing examiner is hereby specifically authorized to conduct said hearing in accordance with the following procedures (and not the procedures of Chapter [2.70 MMC](#)):

(a) The hearing shall be held no earlier than three and no later than 10 working days from the date of notice of intent to revoke.

(b) The licensee shall be permitted to present evidence in support of his position at the hearing.

(c) Within two working days after the hearing, the hearing examiner shall notify the licensee in writing of his/her determination and reasons therefor.

(d) Should the licensee disagree with the determination, he/she must file a notice of nonacceptance with the city attorney's office within 10 working days of receipt of the hearing examiner's determination.

(e) In the event that a notice of nonacceptance is not filed, the hearing examiner's determination shall become final and the suspension/ revocation shall be given immediate effect.

(3) The city shall, within five working days following receipt of a notice of nonacceptance, file a complaint with the superior court enjoining the licensee from operating his/her business or acting pursuant to his/her license. The burden of proof shall be on the city. The status quo shall be maintained and the clerk's determination of revocation or suspension shall not be effective until a final judicial determination on the merits affirming the suspension/revocation is rendered. (Ord. 2070 § 6, 1996).

5.92.100 Standards of conduct and operation – Public bath house and body shampoo parlor.

The following standards of conduct and operation must be adhered to by a public bath house, a body shampoo parlor, and respectively, their employees and independent contractors:

(1) Required on Premises. While open to the public, a licensed manager and/or assistant manager shall be on premises at all times when the facility is open to receive customers.

(2) Nudity. No employee or independent contractor shall be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals.

(3) Age of Employees. No employee or independent contractor shall be under the age of 18 years. It shall be unlawful for the owner, the manager or assistant manager to knowingly permit or allow any person under the minimum age of 18 years to work or provide services at a public bath house or body shampoo parlor.

(4) Inspections. In order to insure compliance, public bath houses and body shampoo parlors shall be open to inspection by city agents and employees during the hours when the premises are open for business. The purpose of such inspection shall be to determine if the licensed premises are operated in accordance with the requirements of this chapter. (Ord. 2070 § 6, 1996).

~~**5.92.110 Standards of conduct and operation – Tattoo parlors.**~~

~~The following standards of conduct and operation must be adhered to by a tattoo parlor and its employees and independent contractors:~~

~~(1) Required on Premises. While open to the public, a licensed manager and/or employee or independent contractor shall be on premises at all times when the business is open for operation.~~

~~(2) Posting of License. The license of a tattoo parlor licensed under this chapter shall be posted in a conspicuous place at the tattoo parlor.~~

~~(3) Admission. Without the written consent of a parent or guardian, tattooing shall not be performed on persons under the age of 18 years. A tattoo parlor shall be required to obtain sufficient proof of age prior to beginning with tattooing to ensure that all patrons tattooed are at least 18 years of age. Any of the following shall be considered as appropriate documentation of age:~~

~~(a) A motor vehicle operator's license issued by any state bearing the patron's photograph and date of birth;~~

~~(b) A state issued identification card bearing the patron's photograph and date of birth;~~

~~(c) An official passport issued by the United States of America;~~

~~(d) An immigration card issued by the United States of America.~~

~~It shall be unlawful for a tattoo parlor to tattoo a person under the age of 18 without written consent from the patron's parent or guardian.~~

~~(4) Record Keeping. Before any tattooing operation starts, the patron should be required personally to enter on a record form provided by the shop his/her name, age, address and, if service personnel, serial number and his/her signature. Such records shall be maintained by the tattoo parlor. Upon receipt of payment for a tattoo, the tattoo parlor shall issue a receipt to each patron containing the name and address of the tattoo parlor and the tattoo parlor's license number. A duplicate copy of each such receipt shall be maintained by the tattoo parlor.~~

~~(5) Health Regulations.~~

~~(a) Tattooing should be done only on normal, healthy skin surface. No tattooing should be done on scar tissue. No tattoo operator shall remove any tattoo marks.~~

~~(b) A new, clean, disposable safety razor shall be used for each patron for preparation of any areas to be tattooed.~~

~~(c) Before shaving, the area to be tattooed shall be thoroughly cleaned with tincture of green soap (U.S.P.) or its equivalent. After shaving the area to be tattooed, 70 percent alcohol (rubbing alcohol) must be applied to the skin.~~

~~(d) Only carbolated vaseline or its equivalent may be used on the area to be tattooed.~~

~~(e) All dyes used shall be mixed with alcohol or a stock solution of phenolized listerine. All dyes used shall be manufactured by a reputable dye manufacturing company and used without alteration of the manufacturer's original formula.~~

~~(f) Excess dye shall be removed from the skin with an individual sterile gauze, sterile cotton or sterile napkin. Completed tattoos shall be washed with a piece of sterile gauze or cotton saturated with a solution of tincture of green soap or equivalent. Thereafter the area shall be disinfected with 70 percent alcohol (rubbing alcohol). The tattooed area shall be allowed to dry and carbolated vaseline or its equivalent and sterile gauze shall be applied.~~

~~(g) Printed or mimeographed instructions approved by the Snohomish health district, if available, shall be given to each patron on the care of the skin as a precaution against infection after tattooing. (Ord. 2070 § 6, 1996).~~

5.92.120 Misdemeanor.

Any person knowingly violating any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in MMC [6.03.120](#). (Ord. 2070 § 6, 1996).

5.92.130 Inspections.

In order to insure compliance with this chapter, inspections by city agents and employees during the hours of business operation shall be permitted. The purpose of such inspections shall be to determine if the licensed premises are operated in accordance with this chapter. (Ord. 2070 § 6, 1996).

5.92.140 Severability.

Each provision of this chapter is separate and severable from all other provisions of this chapter. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstances shall not affect the enforcement of the remainder of this chapter to any person or circumstances. (Ord. 2070 § 6, 1996).

5.92.150 Body Art, Body Piercing and Tattooing and Tattoo Parlors.

(1) All business license applications and fees for Body Art, Body Piercing and Tattooing and Tattoo Parlors shall be processed pursuant to MMC Chapter 5.02 and shall comply with all City laws and regulations and all State licensing laws and regulations.

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(2) It is unlawful for a manager or an employee or independent contractor to work in a tattoo parlor unless the manager or employee or independent contractor is a holder of a valid and subsisting license from the State and City to do so.

(3) RCW 26.28.085 Applying a tattoo to a minor – penalty, including all future amendments, additions or deletions, is incorporated and adopted by reference.

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PASSED by the City Council and APPROVED by the mayor this _____ day of _____, 2010.

CITY OF MARYSVILLE

Jon Nehring, Mayor

ATTEST:

Tracy Jeffries, City Clerk

APPROVED AS TO FORM

Grant K. Weed, City Attorney.

Date of Publication: _____

CITY OF MARYSVILLE

Marysville, Washington

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MARYSVILLE AMENDING PORTIONS OF MARYSVILLE MUNICIPAL CODE CHAPTER 5.92 RELATING TO BODY ART, BODY PIERCING AND TATTOOING OR TATTOO PARLORS AND PROVIDING FOR SEVERABILITY.

WHEREAS, the State of Washington has recently adopted revised standards regulating tattooing, licensing and licensing fees regarding tattooing in addition to already established regulations including but not limited to RCW Chapter 18.300, WAC 246-145, and WAC 308.22; and,

WHEREAS, the City of Marysville desires to update its regulations regarding Tattooing and Licensing to be consistent with State law; and,

WHEREAS, the City of Marysville wishes to streamline the licensing review and not duplicate State review adding costs to the City and the Tattoo Businesses.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Marysville Municipal Code Chapter 5.92 entitled “PUBLIC BATH HOUSES, BODY SHAMPOO PARLORS AND TATTOO PARLORS” is amended to read as follows:

Chapter 5.92 PUBLIC BATH HOUSES, BODY SHAMPOO PARLORS AND BODY ART, BODY PIERCING AND TATTOOING AND TATTOO PARLORS	
Sections:	
5.92.010	Definitions.
5.92.020	License required.
5.92.030	Public bath houses, and body shampoo parlors licenses.
5.92.050	Public bath house manager, assistant manager and attendant licenses.
5.92.060	Body shampoo parlor manager, assistant manager and attendant licenses.
5.92.080	Denials of license.
5.92.090	Suspension or revocation of licenses – Notice – Summary suspension or revocation.
5.92.100	Standards of conduct and operation – Public bath house and body shampoo parlor.
5.92.120	Misdemeanor.

- [5.92.130](#) Inspections.
- [5.92.140](#) Severability.
- 5.92.150 Body Art, Body Piercing and Tattooing and Tattoo Parlors

5.92.010 Definitions.

For the purposes of this chapter and unless the context plainly requires otherwise, the following definitions are adopted:

(1) "Applicant" means the individual or entity seeking a license to operate a public bath house, or body shampoo parlor in the city of Marysville. Upon issuance of a license, the applicant may be referred to as the "licensee." An applicant shall be considered an "applicant" regardless of the form of its business organization whether proprietorship, partnership, corporation or other form, and regardless whether the organization is for profit or not. An organization may be an "applicant" even though its patrons are members, and it characterizes itself as a club, fraternal organization, church, society or otherwise.

(2) "Applicant control person" means all partners, corporate officers and directors and any other individuals in the applicant's business organization who hold a significant interest in the business, based on responsibility for the management of the business.

(3) "Attendant" means an employee or independent contractor who is present at a public bathhouse or body shampoo parlor while a patron's body is bathed, washed, or shampooed.

(4) "Beginning work" shall mean engaged in activities for a business required to be licensed by this chapter, whether the relationship is deemed between employer and employee or owner and independent contractor.

(5) "Body shampoo parlor" means any place open to the public where an attendant is present and a patron's body is washed or shampooed. A body shampoo parlor shall not include any barber or beauty salon, medical facility or nursing home facility where a customer or patient may be washed, shaved and/or shampooed.

(6) "Clerk" shall mean the city clerk or deputy city clerk as appointed pursuant to the provisions of Chapter [2.30](#) MMC.

(7) "Employee" or "independent contractor" means any and all persons, including managers, who work in or at or render any services directly related to the operation of a public bath house or body shampoo parlor.

(8) "Hearing examiner" shall mean the hearing examiner as appointed pursuant to the provisions of Chapter [2.70](#) MMC.

(9) "Manager" means any person who manages, directs, administers or is in charge of the affairs and/or conduct of any portion of any activity at a public bath house or body shampoo parlor or. An "assistant manager" shall be that person who, in the absence of the manager or jointly with the manager, shall undertake the duties of the manager as defined by this section.

(10) "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture or other entity or group of persons, however organized.

(11) "Public bath house" means any place open to the public where Russian, Turkish, Swedish, hot air, vapor, electric cabinet or other baths of any kind are given or furnished; provided, that the term "public bath house" shall not include ordinary tub baths where an attendant is not provided; and provided further, that a public bath house shall not include a club as defined by MMC 19.08.095 organized for athletic purposes, or a country club as defined by MMC 19.08.127.

5.92.020 License required.

(1) It is unlawful for any person to conduct, manage or operate any of the following businesses unless such person is the holder of valid and subsisting license from the city to do so, obtained in the manner provided in this chapter: public bath house or body shampoo parlor,.

(2) It is unlawful for any manager, assistant manager or attendant to begin work in a public bath house unless such person is the holder of a valid and subsisting license from the city to do so.

(3) It is unlawful for any manager, assistant manager or attendant to knowingly work in or about or to knowingly perform any service related to the operation of an unlicensed public bath house.

(4) It is unlawful for a manager, assistant manager or attendant to begin work in a body shampoo parlor unless the person is a holder of a valid and subsisting license from the city to do so.

(5) It is unlawful for a manager, assistant manager or attendant to knowingly work in or about or to knowingly perform any service directly related to the operation of an unlicensed body shampoo parlor.

5.92.030 Public bath houses and body shampoo parlors licenses.

(1) All applications for either a public bath house or body shampoo parlor license shall be submitted to the clerk in the name of the person or entity proposing to conduct said business and shall be signed by such person and certified as true under penalty of perjury. All applications shall be submitted on a form supplied by the city, which shall require the following information:

- (a) For the applicant and for each applicant control person, provide: names, any aliases or previous names, driver's license number, if any, Social Security number, if any, and business, mailing and residential address, and business telephone number.
- (b) If a partnership, whether general or limited, the names and addresses of all partners; and if a corporation, date and place of incorporation, names and addresses of all shareholders, evidence that it is in good standing under the laws of Washington, and name and address of any registered agent for service of process.
- (c) Whether the applicant or any partner, corporate officer, or director of the applicant holds any other licenses under this chapter or any license for adult cabaret, adult motion picture theater, adult drive-in theater, adult panoram or bikini club from the city or another city, county or state, and if so, the names and addresses of each other licensed business.
- (d) A summary of the business history of the applicant and applicant control persons in owning or operating a public bath house or body shampoo parlor providing names, addresses and dates of operation for such businesses, and whether any business license has been revoked or suspended, and the reason therefor.
- (e) For the applicant and all applicant control persons, any and all criminal convictions or forfeitures within five years immediately preceding the date of the application, other than parking offenses or minor traffic infractions including the dates of conviction, nature of the crime, name and location of court and disposition.
- (f) For the applicant and all applicant control persons, a description of business, occupation or employment history for the three years immediately preceding the date of the application.
- (g) Authorization for the city, its agents and employees to seek information to confirm any statements set forth in the application.
- (h) The location and doing-business-as name of the proposed public bath house or body shampoo parlor including a legal description of the property, street address, and telephone number, together with the name and address of each owner and lessee of the property.
- (i) Two two-inch by two-inch color photographs of the applicant and applicant control persons, taken within six months of the date of application showing only the full face.
- (j) A complete set of fingerprints for the applicant or each applicant control person taken by Marysville police department employees.
- (k) A scale drawing or diagram showing the configuration of the premises for the proposed public bath house or body shampoo parlor, including a statement of the total floor space occupied by the business, and marked dimensions of the interior of the premises. Performance

areas, seating areas, manager's office and stations, restrooms and service areas shall be clearly marked on the drawing.

(2) An application shall be deemed complete upon the applicant's provision of all information requested above, including identification of "none" where that is the correct response, and the applicant's verification that the application is complete. The clerk may request other information or clarification in addition to that provided in a complete application where necessary to determine compliance with this chapter.

(3) A nonrefundable application fee of \$500.00 must be paid at the time of filing an application in order to defray the costs of processing the application. The annual renewal fee shall be \$300.00.

(4) Each applicant shall verify, under penalty of perjury, that the information contained in the application is true.

(5) If any person or entity acquires, subsequent to the issuance of a license under this chapter, a significant interest based on responsibility for management or operation of the licensed premises or the licensed business, notice of such acquisition shall be provided in writing to the city clerk, no later than 21 days following such acquisition. The notice required shall include the information required for the original license application.

(6) The public bath house or body shampoo parlor license, if granted, shall state on its face the name of the person or persons to whom it is issued, the expiration date, the doing-business-as name and the address of the licensed public bath house or body shampoo parlor . The license shall be posted in a conspicuous place at or near the entrance to the public bath house or body shampoo parlor , so that it can be easily read at anytime the business is open.

(7) No person granted a license pursuant to this chapter shall operate the business under a name not specified on the license, nor shall any person operate a business licensed under this chapter under any designation or at any location not specified on the license. A separate license shall be required for each type of business covered by this chapter, and a separate license shall be required for each location at which a business covered by this chapter is operated. A license shall be valid for one year, and must be annually renewed.

(8) Upon receipt of the complete application and fee, the clerk shall provide copies to the police, fire and community development departments for their investigation and review to determine compliance of the proposed business with the laws and regulations which each department administers. Each department shall, within 30 days of the date of such application, inspect the application and premises and shall make a written report to the clerk whether such application and premises complies with the laws administered by each department. No license may be issued unless each department reports that the application and premises comply with the relevant laws. In the event the premises is not yet constructed, the departments shall base their

recommendation as to premises compliance on their review of the drawings submitted in the application. Any license approved prior to premises construction shall contain a condition that the premises may not open for business until the premises have been inspected and determined to be in substantial conformance with the drawings submitted with the application and submitted with any application for a building permit. A department shall recommend denial of a license under this subsection if it finds that the proposed business is not in conformance with the requirements of this chapter or other law in effect in the city. A recommendation for denial shall cite the specific reason therefor, including applicable laws.

(9) A license shall be issued by the clerk within 30 days of the date of filing a complete license application and fee, unless the clerk determines that the applicant has failed to meet any of the requirements of this chapter or provide any information required under this subsection or that the applicant has made a false, misleading or fraudulent statement of material fact on the application for a license. The clerk shall grant an extension of time in which to provide all information required for a complete license application upon the request of the applicant. If the clerk finds that the applicant has failed to meet any of the requirements for issuance of a license, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable law. If the clerk fails to issue or deny the license within 30 days of the date of filing of a complete application and fee, the applicant shall be permitted, subject to all other applicable law, to operate the business for which the license was sought until notification by the clerk that the license has been denied, but in no event may the clerk extend the application review time for more than an additional 20 days. (Ord. 2070 § 6, 1996

5.92.050 Public bath house manager, assistant manager and attendant licenses.

(1) No person shall work as a manager, assistant manager, attendant at a public bath house without a manager, assistant manager, or attendant license from the city. Each applicant for a license shall complete an application on forms provided by the city containing the information identified below. A nonrefundable application fee of \$100.00 shall accompany the application for a manager or assistant manager. A nonrefundable fee of \$25.00 shall accompany the application for an attendant. A copy of the application shall be provided to the police department for its review, investigation and recommendation. All applications shall be signed by the applicant and certified to be true under penalty of perjury. Each license application shall require the following information:

- (a) The applicant's name, home address, home telephone number, date and place of birth, fingerprints taken by Marysville police department employees, and Social Security number.
- (b) The name and address of each business at which the applicant intends to work.
- (c) Documentation that the applicant has attained the age of 18 years. Any two of the following shall be accepted as documentation of age:

- (i) A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;
- (ii) A state-issued identification card bearing the applicant's photograph and date of birth;
- (iii) An official passport issued by the United States of America;
- (iv) An immigration card issued by the United States of America; or
- (v) Any other identification that the city determines to be acceptable.

- (d) A complete statement of all convictions of the applicant for any misdemeanor or felony violations in this or any other city, county, or state within five years immediately preceding the date of the application, except parking violations or minor traffic infractions.
- (e) A description of the applicant's principal activities or services to be rendered.
- (f) Two two-inch by two-inch color photographs of applicant, taken within six months of the date of application showing only the full face.
- (g) Authorization for the city, its agents and employees to investigate and confirm any statements set forth in the application.
- (h) Each person licensed by this section shall provide a copy of his or her license to the manager on duty on the premises where said person works. The manager shall retain the copy of the licenses readily available for inspection by the city at any time during business hours of the public bath house.

- (2) The clerk may request additional information or clarification when necessary to determine compliance with this chapter.
- (3) A license shall be issued by the clerk within 14 days from the date the complete application and fee are received unless the clerk determines that the applicant has failed to provide any information required to be supplied according to this chapter, has made any false, misleading or fraudulent statement of material fact in the application, or has failed to meet any of the requirements for issuance of a license under this chapter. If the clerk determines that the applicant has failed to qualify for the license applied for, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws. If the clerk has failed to approve or deny an application for license within 14 days of filing of a complete application, the applicant may, subject to all other applicable laws, commence work until notified

by the clerk that the license has been denied, but in no event may the clerk extend the application review time for more than an additional 20 days.

(4) A license issued under this section shall be valid for one year and must be annually renewed. The annual renewal fee for a manager or assistant manager shall be \$75.00. The annual renewal fee for an attendant shall be \$20.00. (Ord. 2070 § 6, 1996).

5.92.060 Body shampoo parlor manager, assistant manager and attendant licenses.

(1) No person shall work as a manager, assistant manager, or attendant at a body shampoo parlor without a manager, assistant manager, or attendant license from the city. Each applicant for a license shall complete an application on forms provided by the city containing the information identified below. A nonrefundable application fee of \$100.00 shall accompany the application for a manager or assistant manager. A nonrefundable fee of \$25.00 shall accompany the application for an attendant. A copy of the application shall be provided to the police department for its review, investigation and recommendation. All applications shall be signed by the applicant and certified to be true under penalty of perjury. Each license application shall require the following information:

(a) The applicant's name, home address, home telephone number, date and place of birth, fingerprints taken by Marysville police department employees, and Social Security number.

(b) The name and address of each business at which the applicant intends to work.

(c) Documentation that the applicant has attained the age of 18 years. Any two of the following shall be accepted as documentation of age:

(i) A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;

(ii) A state-issued identification card bearing the applicant's photograph and date of birth;

(iii) An official passport issued by the United States of America;

(iv) An immigration card issued by the United States of America; or

(v) Any other identification that the city determines to be acceptable.

(d) A complete statement of all convictions of the applicant for any misdemeanor or felony violations in this or any other city, county, or state within five years immediately preceding the date of the application, except parking violations or minor traffic infractions.

(e) A description of the applicant's principal activities or services to be rendered.

(f) Two two-inch by two-inch color photographs of applicant, taken within six months of the date of application showing only the full face.

(g) Authorization for the city, its agents and employees to investigate and confirm any statements set forth in the application.

(h) Each person licensed by this section shall provide a copy of his or her license to the manager on duty on the premises where said person works. The manager shall retain the copy of the licenses readily available for inspection by the city at any time during business hours of the body shampoo parlor.

(2) The clerk may request additional information or clarification when necessary to determine compliance with this chapter.

(3) A license shall be issued by the clerk within 14 days from the date the complete application and fee are received unless the clerk determines that the applicant has failed to provide any information required to be supplied according to this chapter, has made any false, misleading or fraudulent statement of material fact in the application, or has failed to meet any of the requirements for issuance of a license under this chapter. If the clerk determines that the applicant has failed to qualify for the license applied for, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws. If the clerk has failed to approve or deny an application for license within 14 days of filing of a complete application, the applicant may, subject to all other applicable laws, commence work until notified by the clerk that the license has been denied, but in no event may the clerk extend the application review time for more than an additional 20 days.

(4) A license issued under this section shall be valid for one year and must be annually renewed. The annual renewal fee for a manager or assistant manager shall be \$75.00. The annual renewal fee for an attendant shall be \$20.00. (Ord. 2070 § 6, 1996).

5.92.080 Denials of license.

Should the person seeking a license under this chapter disagree with the clerk's determination, the applicant must file a notice of nonacceptance with the city attorney's office within 10 working days of receipt of the notification of denial.

(1) The city shall, within five working days following receipt of the notice of nonacceptance, apply to the superior court for a judicial determination as to whether the applicant's license was properly denied. The burden of showing that the applicant's license was properly denied shall rest on the city.

(2) If a preliminary judicial determination sustaining the city's denial of the subject license is not obtained within five working days from the date the complaint is served, an interim license shall be issued under this chapter by operation of the law. The interim license shall issue in any event if a final judicial determination on the merits is not obtained within 20 days from the date the complaint is filed. In such case, the interim license will remain in effect until a final judicial determination on the merits is reached; provided, however, that any delays caused or requested by the applicant shall be excluded from the above-mentioned 20-day period. (Ord. 2070 § 6, 1996).

5.92.090 Suspension or revocation of licenses – Notice – Summary suspension or revocation.

(1) The city clerk may suspend or revoke any license issued pursuant to this chapter for a period of time not to exceed one year where one or more of the following conditions exist:

(a) The license was procured by fraud or false representation of fact in the application or in any report or record required to be filed with the clerk;

(b) The building, structure, equipment, operation or location of the business for which the license was issued does not comply with the requirements or fails to meet the standards of this chapter;

(c) The applicant, applicant control person, manager, assistant manager, attendant, employee or independent contractor providing has violated or permitted violation of any of the provisions of this chapter.

(2) The procedure for revoking or suspending a license under this chapter shall be the following: Upon determining that grounds for revocation or suspension exist, the city clerk shall send the licensee a notice of intent to revoke or suspend the license. Such notice shall set forth the grounds for suspension or revocation and schedule a hearing before the hearing examiner. The hearing examiner is hereby specifically authorized to conduct said hearing in accordance with the following procedures (and not the procedures of Chapter [2.70](#) MMC):

(a) The hearing shall be held no earlier than three and no later than 10 working days from the date of notice of intent to revoke.

(b) The licensee shall be permitted to present evidence in support of his position at the hearing.

(c) Within two working days after the hearing, the hearing examiner shall notify the licensee in writing of his/her determination and reasons therefor.

(d) Should the licensee disagree with the determination, he/she must file a notice of nonacceptance with the city attorney's office within 10 working days of receipt of the hearing examiner's determination.

(e) In the event that a notice of nonacceptance is not filed, the hearing examiner's determination shall become final and the suspension/ revocation shall be given immediate effect.

(3) The city shall, within five working days following receipt of a notice of nonacceptance, file a complaint with the superior court enjoining the licensee from operating his/her business or acting pursuant to his/her license. The burden of proof shall be on the city. The status quo shall be maintained and the clerk's determination of revocation or suspension shall not be effective until a final judicial determination on the merits affirming the suspension/revocation is rendered. (Ord. 2070 § 6, 1996).

5.92.100 Standards of conduct and operation – Public bath house and body shampoo parlor.

The following standards of conduct and operation must be adhered to by a public bath house, a body shampoo parlor, and respectively, their employees and independent contractors:

(1) Required on Premises. While open to the public, a licensed manager and/or assistant manager shall be on premises at all times when the facility is open to receive customers.

(2) Nudity. No employee or independent contractor shall be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals.

(3) Age of Employees. No employee or independent contractor shall be under the age of 18 years. It shall be unlawful for the owner, the manager or assistant manager to knowingly permit or allow any person under the minimum age of 18 years to work or provide services at a public bath house or body shampoo parlor.

(4) Inspections. In order to insure compliance, public bath houses and body shampoo parlors shall be open to inspection by city agents and employees during the hours when the premises are open for business. The purpose of such inspection shall be to determine if the licensed premises are operated in accordance with the requirements of this chapter. (Ord. 2070 § 6, 1996).

5.92.120 Misdemeanor.

Any person knowingly violating any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in MMC [6.03.120](#). (Ord. 2070 § 6, 1996).

5.92.130 Inspections.

In order to insure compliance with this chapter, inspections by city agents and employees during the hours of business operation shall be permitted. The purpose of such inspections shall be to determine if the licensed premises are operated in accordance with this chapter. (Ord. 2070 § 6, 1996).

5.92.140 Severability.

Each provision of this chapter is separate and severable from all other provisions of this chapter. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstances shall not affect the enforcement of the remainder of this chapter to any person or circumstances. (Ord. 2070 § 6, 1996).

5.92.150 Body Art, Body Piercing and Tattooing and Tattoo Parlors.

(1) All business license applications and fees for Body Art, Body Piercing and Tattooing and Tattoo Parlors shall be processed pursuant to MMC Chapter 5.02 and shall comply with all City laws and regulations and all State licensing laws and regulations.

(2) It is unlawful for a manager or an employee or independent contractor to work in a tattoo parlor unless the manager or employee or independent contractor is a holder of a valid and subsisting license from the State and City to do so.

(3) RCW 26.28.085 Applying a tattoo to a minor – penalty, including all future amendments, additions or deletions, is incorporated and adopted by reference.

PASSED by the City Council and APPROVED by the mayor this _____ day of _____, 2010.

CITY OF MARYSVILLE

Jon Nehring, Mayor

ATTEST:

Tracy Jeffries, City Clerk

APPROVED AS TO FORM

Grant K. Weed, City Attorney.

Date of Publication: _____

CITY OF MARYSVILLE

Marysville, Washington

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MARYSVILLE AMENDING MARYSVILLE MUNICIPAL CODE CHAPTER 14.32 RELATING TO UTILITY SERVICE AREA.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Marysville Municipal Code Chapter 14.32 is hereby amended to read as follows:

**Chapter 14.32
UTILITY SERVICE PLANNING AREA**

Sections:

- [14.32.010](#) Utility service area established – Purposes.
- [14.32.015](#) Water service area.
- ~~[14.32.020](#) Areas excluded from USA Annexation as precondition to service.~~
- [14.32.030](#) USA plan.
- [14.32.035](#) Annexation required
- [14.32.040](#) Criteria for utility connections within USA.
- ~~[14.32.045](#) Expansion of city’s UGA Annexation required.~~
- ~~[14.32.050](#) Implementation rules.~~
- [14.32.0650](#) Administrative procedure.

14.32.010 Utility service area established – Purposes.

(1) There is established a utility service area (USA) for the ~~provision~~ future planning of sanitary sewer and water, the boundaries of which for sewer shall be the city’s urban growth area (UGA) as it now exists or is hereinafter amended. The boundaries of the USA for purposes of water shall be as provided in MMC [14.32.015](#).

(2) The purposes of the USA shall be to allow the city to establish long-range plans for the growth and control of its sanitary sewer and water utility system outside of the city limits but within the city’s UGA, and to accurately forecast the demand for the same; to provide property owners and Snohomish County authorities with an indication of the city’s long-range utility plans for areas which are anticipated to annex into the City in the future. The USA shall not be construed as establishing the city as a “public utility” for properties located therein, nor shall it

be construed as establishing express or implied rights for any property to connect to the city's sanitary sewer or water system. All utility connections are on the basis of special contracts with the city, and such contracts shall be granted or denied, as a governmental function of the city, pursuant to provisions of [Marysville Municipal Code Title 14 and](#) this chapter. The USA shall not be construed as the exercise of the city's police power or utility jurisdiction over any properties not connected to the utility system. The USA is nonexclusive, and does not affect the right of any other utility district or purveyor to provide services therein. (Ord. 2606 § 1, 2005; Ord. 2375 § 7, 2001; Ord. 1242 § 1, 1982).

14.32.015 Water service area.

In accordance with WAC 248-56-730, the city of Marysville in conjunction with adjacent water purveyors, county, and state agencies prepared and adopted "The Snohomish County Critical Water Supply Service Area Map." ~~f~~This map identifies the city's future service area boundary for water, commonly referred to as the CWSP (coordinated water system plan). To the greatest extent practicable, the water service area shall be consistent with the city's UGA. Adjustments to this boundary shall be completed as defined in the "Agreement for Establishing Water Utility Service Area Boundaries" and applicable state law. Establishment of such boundary shall not be construed as a commitment, either express or implied, to provide water service to any property therein. (Ord. 2606 § 1, 2005).

14.32.020 ~~Areas excluded from USA Annexation as precondition to service~~ Utility Service Limitations.

~~The~~ Except as otherwise provided herein, the city shall not contract to provide or serve water or sewer utilities to any properties ~~located outside of the city limits and~~ outside of the adopted service boundaries for sewer and water as set forth in MMC [14.32.010](#) and [14.32.015](#). ~~No properties within the established USA service boundaries shall be provided with water or sewer service until they are annexed and become part of the City pursuant to MMC 14.32.045.~~ Provided however, the city may upon application for a variance as set forth in MMC 14.32.050(4), approve utility service outside the established service boundaries upon a showing of a bona fide public health emergency as defined herein. (Ord. 2606 § 1, 2005; Ord. 2375 § 7, 2001; Ord. 1242 § 2, 1982).

14.32.030 USA plan.

The city shall adopt a Growth Management Act (GMA) comprehensive plan as required by the Growth Management Act and other applicable statutes and laws. Such plan, including the city's comprehensive water and sewer plan subelements, shall be the city's USA plan. The plan may be prepared as a whole or in successive parts. It shall include a map designating land use classifications and density limitations consistent with the city's [land use](#) comprehensive plan for properties within the USA. Its purpose shall be to allow the city to anticipate and influence the orderly and coordinated development of a utility network, and urbanization, in the USA, and to ensure that the city's utility system retains adequate capacity to serve all properties within the [existing and future](#) city limits and to meet existing contractual obligations. Procedures used in

adopting or amending the USA plan shall be the same as those required for adopting or amending a land use comprehensive plan of the city. The USA plan, and all amendments thereto, shall be filed with the appropriate government agencies as required by law. (Ord. 2606 § 1, 2005; Ord. 2375 § 7, 2001; Ord. 1242 § 3, 1982).

14.32.035 Annexation required.

Any property within the City of Marysville Urban Growth Area (UGA) or Utility Service Area (USA) as they now exist or as they are hereafter amended, shall, as a condition of receiving city water or sewer service, be required to first annex to the city of Marysville. No letter of water or sewer availability shall be issued by the city for development projects accepted or approved by Snohomish County until said property is first annexed to the City of Marysville.

(1) Provided, annexation shall not be a precondition to service for those already under contract with the City for provision of utilities or through a utility local improvement district.

(2) Provided further, annexation shall not be a precondition of service where there is a showing of a bonafide public health emergency as defined herein.

(3) Provided further, the annexation requirement of this section shall not apply to properties within another jurisdiction's city limits or urban growth area of another city in which the city of Marysville has by agreement with such city committed to serve water and sewer utilities.

14.32.040 Criteria for utility connections within USA.

~~The city is under no obligation to provide water and sewer utility services to any properties located outside of the city limits, with the exception of those already under contract with the city privately or through a utility local improvement district or upon a showing of a bona fide public health emergency as defined herein. However, any application~~All other applications for such services within the USA boundaries shall be reviewed and granted, or denied, in the city's discretion, pursuant to the following criteria~~require~~Following annexation, the following criteria shall be evaluated in determining whether utilities will be provided:

~~(1) Priority shall be given to properties located within an established ULID and properties having some pre-existing contractual relationship with the city for utilities. A lien imposed against property by a recovery contract entered into between the city and a developer does not constitute a contract right which will grant a priority hereunder.~~

~~(2) A property applying for a utility connection must be suitable for ultimate annexation to the city based upon its proximity to the city, the long-range plans of the city to annex that area, the city's annexation policy as established by resolution, the proposed use of the property, the potential urbanization which will result from the use, and the environmental and economic impact of such urbanization and the annexation of the property into the city. The owner of any property granted utility connections shall sign a petition to annex the property to the city, and may be required to obtain similar petitions from other property owners in the immediate vicinity so as to compose a logical extension of the city's boundaries. Except as provided in MMC~~

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~~14.32.045~~, in the event that the property granted utility connections is not then contiguous to the city limits, or within two parcels of the city limits, the city may waive the requirement for an annexation petition and may allow the owner, instead, to sign a covenant agreeing to petition for and/or consent to an annexation of the property immediately upon the same becoming contiguous to the city limits or upon it being included within a larger annexation proposal. The covenant shall be binding upon the owner, its heirs, successors and assigns, and shall be construed as a covenant running with the land. It shall be recorded in the records of the Snohomish County auditor prior to connection of the property to the utility system; provided, however, the requirements of this subsection shall not apply to properties within another jurisdiction's city limits or urban growth area of another city in which the city of Marysville has by agreement with such city committed to serve water and sewer utilities.

~~————(3) The existing or proposed use for the property shall be consistent with the then current USA plan as adopted by the city. Utility services shall be conditioned upon continued compliance with the USA plan. If inconsistencies exist between the USA plan and Snohomish County's comprehensive plan, they shall be resolved pursuant to MMC 14.32.050(3).~~

~~————(4) Properties located outside the city limits of Marysville seeking city sewer service shall also be required to connect to water service from the city. Any variation from this requirement shall be processed pursuant to MMC 14.01.040.~~

~~————(51) Priority shall be given to proposals which will have the least adverse impact upon the existing utility system and its capacity to serve all properties within the city limits. An analysis shall be made of the remaining capacity of the city water and sewer infrastructure and of the foreseeable demand for the same by properties within the city limits. The proposed project shall be analyzed with respect to its size and density of development, quantity of utility services demanded (average flow and peak periods), special treatment or hazards involved, and the potential for expansion or change of use after original connections are granted. No connection shall be approved which is inconsistent with the long range plans of the utility system, the city's GMA comprehensive plan, including the city's comprehensive water and sewer plan subelements adopted pursuant to the Growth Management Act, or which would jeopardize public health or safety or the environment.~~

~~————(62) The cost of serving the property with city utilities should be compared with the projections for revenue to be derived therefrom. If major capital improvements are required to service the property, methods of financing the same must be analyzed in light of the city's other budgetary priorities.~~

~~————(73) Priority shall be given to properties which are in close proximity to existing utility lines with adequate reserve capacity. Connections will be discouraged which will require lengthy extensions or which will open new areas for development and will create new demand for city utilities.~~

~~————(84) City utilities will not be offered for properties which have other practical and feasible sources for such services.~~

~~————(95) Utilities will not be granted where such service, and the city's regulation thereof, would create a conflict with another municipal jurisdiction or utility district. Except as otherwise~~

~~provided by the terms of an agreement between the city of Marysville and another municipal utility purveyor, utilities will not be granted where annexation of the property would be legally impossible because of conflicting jurisdictions.~~

~~———— (106) There must be a finding that the extension of utilities to the property, and the urbanization of the property, will create no substantial adverse environmental or economic impact.~~

~~14.32.045 Expansion of city's UGA Annexation required.~~

~~Notwithstanding any other provisions of this chapter, from and after December 12, 2005, any unincorporated area of Snohomish County added to the Marysville UGA, which is depicted on the map described below Any property within the existing City of Marysville Urban Growth Area (UGA) as it now exists or as it is hereafter amended, shall, as a condition of receiving city water or sewer service, be required to first annex to the city of Marysville. No letter of water or sewer availability shall be issued by the city for development projects accepted or approved by Snohomish County for properties located in the areas depicted on the map described below. A map depicting those properties and areas subject to this requirement shall be kept on file at the city department of community development and shall be updated annually or as the city's UGA is revised. Said map shall be available for public inspection during normal business hours. (Ord. 2606 § 1, 2005) until said property is first annexed to the City of Marysville.~~

~~14.32.050 Implementation rules.~~

~~To implement and interpret this chapter, the following rules shall apply:~~

~~———— (1) Annexations of properties connected to city utilities will not be on a piecemeal basis, but will follow the city's annexation policy as established by resolution. Delay by the city in implementing an annexation petition or covenant shall not be construed as a waiver of the same.~~

~~———— (2) Utility service to properties within a ULID, or to other properties with pre-existing contractual commitments from the city, is contingent upon compliance with MMC 14.32.040(1) through (5). The remaining subsections of MMC 14.32.040 shall not apply to such properties.~~

~~———— (3) In the event that the USA plan is inconsistent with Snohomish County's comprehensive plan, the USA plan shall prevail for purposes of this chapter.~~

~~———— (4) Where a Snohomish County zoning classification allows a use of undeveloped property which is inconsistent with the USA plan, the USA plan shall prevail over the county zoning classification.~~

~~———— (5) Where Snohomish County zoning controls allow planned residential developments, and concepts of clustering and lot size averaging, development in conformance thereto shall be construed as being consistent with the USA plan if the overall density does not exceed that permitted by the USA plan.~~

~~———— (6) Duplexes shall not be granted utility services in a single family residential planning area unless they are consistent with the density provisions of the city's comprehensive plan.~~

~~———— (7) The city maintains transmission mains for the purpose of transporting water, in bulk, from the city's wells to the distribution system. The city reserves the right to abandon such transmission mains, and all direct connections of individual properties thereto are subject to this condition. In the event of such abandonment, all property owners connected to the main shall have the right to privately repair and maintain the main, and appurtenances, as a means of obtaining water from any public or private source, on terms agreeable with the city.~~

~~———— (8) Utility service to any property within the USA shall not be expanded to serve any abutting properties without express approval from the city. No implication that such approval will be granted shall arise from utility service to the subject property.~~

~~———— (9) Continued utility service to any property within the USA shall be conditioned upon payment of all fees and charges, compliance with all rules and regulations of the city utility code, and continued conformity to the USA plan. A violation shall result in termination of utility service and, at the option of the city, termination of all future service rights for the subject property. (Ord. 2606 § 1, 2005; Ord. 2375 § 7, 2001; Ord. 1276, 1983; Ord. 1242 § 5, 1982).~~

14.32.0650 Administrative procedure.

(1) Applications for Utility Connections. Owners of property within the USA but outside the city limits who desire to connect to city utilities may file an application for the same with the city engineer, or his designee, on forms provided by the city. All such applications shall be accompanied by the application fee required in MMC 14.07.005 and payment in full of all assessments required by the city code, and where applicable, by a fully executed annexation petition ~~or covenant~~. No letter of utility availability shall be issued until such time ~~that the city has reviewed a development proposal for consistency with the USA plan and this chapter as the subject property has been annexed to the City. If annexation does not occur, all application fees and assessments shall be refunded.~~

The city engineer, or his designee, shall determine whether applications are complete, and may require the submittal of additional documentation, including an environmental/economic impact statement, if necessary. The decision of the city engineer, or his designee, concerning the ~~grant or denial of recommendation to grant or deny utility connection following annexation or to grant or deny~~ a letter of water or sewer availability shall be in writing and shall be mailed to the applicant at the address stated on the application form.

(2) Application Granted – Duration. Following annexation. ~~If~~ the connection is granted, the applicant shall have a period of 12 months to comply with all city utility codes and requirements and complete the utility connections to the property. If the same are not so completed, the applicant's right to a connection shall become void. If an availability letter relates to lots within a proposed formal plat, short plat, or binding site plan, the applicant shall have a period of two years to comply with all city codes and requirements and complete the utility connections to the property. If the same are not so completed, the applicant's utility application shall become void.

(3) Application Denied – Appeal. Following annexation. ~~If~~ the connection is denied, or the application letter rejected, or if an applicant is aggrieved by conditions imposed by the city

engineer, an appeal may be filed within 14 days of the date of the city engineer’s decision. Such appeal shall be filed with the city engineer and shall be processed in accordance with the procedures for administrative appeals outlined in MMC Title [15](#). Appeals must be accompanied by the fee required in MMC [14.07.005](#).

(4) Variances. The city land use hearing examiner shall have authority to grant variances from any and all provisions of this chapter, and from the adopted USA plan. Applications for such variances shall be filed, in writing, with the city engineer, together with a filing fee of \$200.00. The applicant shall be given 10 days’ notice of the date on which the hearing examiner shall consider the variance. The hearing examiner is authorized to issue such variances only if it is found that a literal enforcement of this chapter would cause practical difficulties or unnecessary hardships. No such variance shall be authorized unless the examiner finds that all of the following facts and conditions exist:

- (a) That there are exceptional or extraordinary circumstances [such as a bona fide public health emergency](#) or conditions applying to the subject property or as to the intended use thereof that do not apply generally to other properties in the same vicinity;
- (b) That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity;
- (c) That the authorization of such variance will not be materially detrimental to the public interest, welfare or the environment;
- (d) That the granting of such variance will not be inconsistent with the long-range plans of the city utility system, ~~or jeopardize utility availability for properties within the city limits;~~
- (e) That the granting of such variances ~~will not conflict with the city’s annexation policies as adopted by resolution~~ [is consistent with the Growth Management Act, RCW Chapter 36.70A.](#)
- (f) [For purposes of this chapter the term “bona fide public health emergency” shall mean that service is necessary and that all of the following are present:](#)
 - (i) [The impact on public health potentially impacts the general public rather than solely the property owner making application;](#)
 - (ii) [The hardship is not the result of the applicant’s own action; and](#)
 - (iii) [The hardship is not merely financial or pecuniary.](#)
 - (iv) [The city’s NPDES permit will not be affected by the extension \(if applicable\); and](#)
 - (v) [The extension is consistent with the goals of the city’s water and sewer comprehensive plans and all other applicable law, including, but not limited to, the Public Water System Coordination Act \(Chapter 70.116 RCW\), the Growth Management Act, and the State Environmental Policy Act.](#)
 - (vi) [The city has adequate capacity and adequate infrastructure available to provide the required service, or the applicant voluntarily agrees to provide the necessary infrastructure upgrades to allow service consistent with city standards.](#)

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~~Provided, that the variance criteria in subsections (4)(a) and (4)(b) of this section shall not be required, and a variance may be granted solely on the basis of the criteria in subsections (4)(c) and (4)(d) of this section in the following limited cases: those applications where a variance from the city's annexation policies or USA boundary is needed to allow water service or sewer service to one single family residence; provided, that a city water line must be in reasonably close proximity to the residence, and there must be no alternative source of domestic water supply or sewer service which is practical under the circumstances.~~

In authorizing a variance, the hearing examiner may attach thereto such conditions as deemed necessary to carry out the spirit and purposes of this chapter and to protect the long-range plans of the city utility system and the public interest. Each variance shall be considered on a case-by-case basis and shall not be construed as setting precedent for any subsequent application. A variance shall become void if the utility connection allowed has not been completed in accordance with the time schedule provided in subsection (2) of this section. The decision of the hearing examiner on a variance shall be final, and no similar application for the same property may be filed for a period of six months thereafter. Any party aggrieved by the decision of the hearing examiner on a variance shall have a right to file a petition under the Land Use Petition Act in the Snohomish County superior court; provided, that the application must be filed and served within the timeframes prescribed by Chapter 36.70C RCW.

(5) Extended Time for Connections. In the event that a utility connection approved pursuant to subsection (2) or (4) of this section cannot be completed within the time period specified therein, the applicant may be granted one or more extensions by the city engineer; provided, that an extension must be requested while connection rights are still valid, and shall only be granted for good cause shown and for the minimum period necessary to complete the connection; provided further, that the city engineer may impose a condition on any extension so as to require the applicant to immediately pay all capital improvement charges reasonably projected for the subject property (which payment shall be nonrefundable), and so as to require the applicant to immediately commence paying minimum service charges reasonably projected for the subject property (which payments shall be nonrefundable). Extensions provided for herein are privileges and not rights, and shall be granted or denied in the discretion of the city engineer. The decision of the city engineer shall be final. (Ord. 2606 § 1, 2005; Ord. 2375 § 7, 2001; Ord. 1431, 1985; Ord. 1267, 1982; Ord. 1242 § 6, 1982)

Section 2. Severability.

If any word, phrase, sentence, provision, or portion of this ordinance is declared to be invalid or unenforceable, it shall not affect validity or enforceability of the remaining words, phrases, sentences, provisions or portions of this ordinance.

PASSED by the City Council and APPROVED by the mayor this _____ day of _____, 2010.

ORDINANCE

W/mv/Ord.amend.Ch 14.32 Util Service Area.RED.101410

Page 8 of 9

CITY OF MARYSVILLE

~~Dennis L. Kendal~~ Jon Nehring, Mayor

ATTEST:

Tracy Jeffries, City Clerk

APPROVED AS TO FORM

Grant K. Weed, City Attorney.

Date of Publication: _____

ORDINANCE

W/mv/Ord.amend.Ch 14.32 Util Service Area.RED.101410

Page 9 of 9

CITY OF MARYSVILLE

Marysville, Washington

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MARYSVILLE AMENDING MARYSVILLE MUNICIPAL CODE CHAPTER 14.32 RELATING TO UTILITY SERVICE AREA.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Marysville Municipal Code Chapter 14.32 is hereby amended to read as follows:

Chapter 14.32 UTILITY SERVICE PLANNING AREA

Sections:

<u>14.32.010</u>	Utility service area established – Purposes.
<u>14.32.015</u>	Water service area.
<u>14.32.020</u>	Annexation as precondition to service.
<u>14.32.030</u>	USA plan.
<u>14.32.035</u>	Annexation required
<u>14.32.040</u>	Criteria for utility connections within USA.
<u>14.32.050</u>	Administrative procedure.

14.32.010 Utility service area established – Purposes.

(1) There is established a utility service area (USA) for the future planning of sanitary sewer and water, the boundaries of which for sewer shall be the city’s urban growth area (UGA) as it now exists or is hereinafter amended. The boundaries of the USA for purposes of water shall be as provided in MMC [14.32.015](#).

(2) The purposes of the USA shall be to allow the city to establish long-range plans for the growth and control of its sanitary sewer and water utility system outside of the city limits but within the city’s UGA, and to accurately forecast the demand for the same; to provide property owners and Snohomish County authorities with an indication of the city’s long-range utility plans for areas which are anticipated to annex into the City in the future. The USA shall not be construed as establishing the city as a “public utility” for properties located therein, nor shall it be construed as establishing express or implied rights for any property to connect to the city’s sanitary sewer or water system. All utility connections are on the basis of special contracts with

the city, and such contracts shall be granted or denied, as a governmental function of the city, pursuant to provisions of Marysville Municipal Code Title 14 and this chapter. The USA shall not be construed as the exercise of the city's police power or utility jurisdiction over any properties not connected to the utility system. The USA is nonexclusive, and does not affect the right of any other utility district or purveyor to provide services therein. (Ord. 2606 § 1, 2005; Ord. 2375 § 7, 2001; Ord. 1242 § 1, 1982).

14.32.015 Water service area.

In accordance with WAC 248-56-730, the city of Marysville in conjunction with adjacent water purveyors, county, and state agencies prepared and adopted "The Snohomish County Critical Water Supply Service Area Map." This map identifies the city's future service area boundary for water, commonly referred to as the CWSP (coordinated water system plan). To the greatest extent practicable, the water service area shall be consistent with the city's UGA. Adjustments to this boundary shall be completed as defined in the "Agreement for Establishing Water Utility Service Area Boundaries" and applicable state law. Establishment of such boundary shall not be construed as a commitment, either express or implied, to provide water service to any property therein. (Ord. 2606 § 1, 2005).

14.32.020 Utility Service Limitations.

Except as otherwise provided herein, the city shall not contract to provide or serve water or sewer utilities to any properties outside of the adopted service boundaries for sewer and water as set forth in MMC [14.32.010](#) and [14.32.015](#). No properties within the established USA service boundaries shall be provided with water or sewer service until they are annexed and become part of the City pursuant to MMC 14.32.045. Provided however, the city may upon application for a variance as set forth in MMC 14.32.050(4), approve utility service outside the established service boundaries upon a showing of a bona fide public health emergency as defined herein. (Ord. 2606 § 1, 2005; Ord. 2375 § 7, 2001; Ord. 1242 § 2, 1982).

14.32.030 USA plan.

The city shall adopt a Growth Management Act (GMA) comprehensive plan as required by the Growth Management Act and other applicable statutes and laws. Such plan, including the city's comprehensive water and sewer plan subelements, shall be the city's USA plan. The plan may be prepared as a whole or in successive parts. It shall include a map designating land use classifications and density limitations consistent with the city's land use comprehensive plan for properties within the USA. Its purpose shall be to allow the city to anticipate and influence the orderly and coordinated development of a utility network, and urbanization, in the USA, and to ensure that the city's utility system retains adequate capacity to serve all properties within the existing and future city limits and to meet existing contractual obligations. Procedures used in adopting or amending the USA plan shall be the same as those required for adopting or amending a land use comprehensive plan of the city. The USA plan, and all amendments thereto, shall be filed with the appropriate government agencies as required by law. (Ord. 2606 § 1, 2005; Ord. 2375 § 7, 2001; Ord. 1242 § 3, 1982).

14.32.035 Annexation required.

Any property within the City of Marysville Urban Growth Area (UGA) or Utility Service Area (USA) as they now exist or as they are hereafter amended, shall, as a condition of receiving city water or sewer service, be required to first annex to the city of Marysville. No letter of water or sewer availability shall be issued by the city for development projects accepted or approved by Snohomish County until said property is first annexed to the City of Marysville.

(1) Provided, annexation shall not be a precondition to service for those already under contract with the City for provision of utilities or through a utility local improvement district.

(2) Provided further, annexation shall not be a precondition of service where there is a showing of a bonafide public health emergency as defined herein.

(3) Provided further, the annexation requirement of this section shall not apply to properties within another jurisdiction's city limits or urban growth area of another city in which the city of Marysville has by agreement with such city committed to serve water and sewer utilities.

14.32.050 Administrative procedure.

(1) Applications for Utility Connections. Owners of property within the USA but outside the city limits who desire to connect to city utilities may file an application for the same with the city engineer, or his designee, on forms provided by the city. All such applications shall be accompanied by the application fee required in MMC [14.07.005](#) and payment in full of all assessments required by the city code, and where applicable, by a fully executed annexation petition. No letter of utility availability shall be issued until such time as the subject property has been annexed to the City. If annexation does not occur, all application fees and assessments shall be refunded.

The city engineer, or his designee, shall determine whether applications are complete, and may require the submittal of additional documentation, including an environmental/economic impact statement, if necessary. The decision of the city engineer, or his designee, concerning the recommendation to grant or deny utility connection following annexation or to grant or deny a letter of water or sewer availability shall be in writing and shall be mailed to the applicant at the address stated on the application form.

(2) Application Granted – Duration. Following annexation, if the connection is granted, the applicant shall have a period of 12 months to comply with all city utility codes and requirements and complete the utility connections to the property. If the same are not so completed, the applicant's right to a connection shall become void. If an availability letter relates to lots within a proposed formal plat, short plat, or binding site plan, the applicant shall have a period of two years to comply with all city codes and requirements and complete the utility connections to the property. If the same are not so completed, the applicant's utility application shall become void.

(3) Application Denied – Appeal. Following annexation, if the connection is denied, or the application letter rejected, or if an applicant is aggrieved by conditions imposed by the city engineer, an appeal may be filed within 14 days of the date of the city engineer’s decision. Such appeal shall be filed with the city engineer and shall be processed in accordance with the procedures for administrative appeals outlined in MMC Title [15](#). Appeals must be accompanied by the fee required in MMC [14.07.005](#).

(4) Variances. The city land use hearing examiner shall have authority to grant variances from any and all provisions of this chapter, and from the adopted USA plan. Applications for such variances shall be filed, in writing, with the city engineer, together with a filing fee of \$200.00. The applicant shall be given 10 days’ notice of the date on which the hearing examiner shall consider the variance. The hearing examiner is authorized to issue such variances only if it is found that a literal enforcement of this chapter would cause practical difficulties or unnecessary hardships. No such variance shall be authorized unless the examiner finds that all of the following facts and conditions exist:

- (a) That there are exceptional or extraordinary circumstances such as a bona fide public health emergency or conditions applying to the subject property or as to the intended use thereof that do not apply generally to other properties in the same vicinity;
- (b) That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity;
- (c) That the authorization of such variance will not be materially detrimental to the public interest, welfare or the environment;
- (d) That the granting of such variance will not be inconsistent with the long-range plans of the city utility system;
- (e) That the granting of such variances is consistent with the Growth Management Act, RCW Chapter 36.70A.
- (f) For purposes of this chapter the term “bona fide public health emergency” shall mean that service is necessary and that all of the following are present:
 - (i) The impact on public health potentially impacts the general public rather than solely the property owner making application;
 - (ii) The hardship is not the result of the applicant’s own action; and
 - (iii) The hardship is not merely financial or pecuniary.
 - (iv) The city’s NPDES permit will not be affected by the extension (if applicable); and
 - (v) The extension is consistent with the goals of the city’s water and sewer comprehensive plans and all other applicable law, including, but not limited to, the Public Water System Coordination Act (Chapter 70.116 RCW), the Growth Management Act, and the State Environmental Policy Act.
 - (vi) The city has adequate capacity and adequate infrastructure available to provide the required service, or the applicant voluntarily agrees to provide the necessary infrastructure upgrades to allow service consistent with city standards.

In authorizing a variance, the hearing examiner may attach thereto such conditions as deemed necessary to carry out the spirit and purposes of this chapter and to protect the long-range plans of the city utility system and the public interest. Each variance shall be considered on a case-by-case basis and shall not be construed as setting precedent for any subsequent application. A variance shall become void if the utility connection allowed has not been completed in accordance with the time schedule provided in subsection (2) of this section. The decision of the hearing examiner on a variance shall be final, and no similar application for the same property may be filed for a period of six months thereafter. Any party aggrieved by the decision of the hearing examiner on a variance shall have a right to file a petition under the Land Use Petition Act in the Snohomish County superior court; provided, that the application must be filed and served within the timeframes prescribed by Chapter 36.70C RCW.

(5) Extended Time for Connections. In the event that a utility connection approved pursuant to subsection (2) or (4) of this section cannot be completed within the time period specified therein, the applicant may be granted one or more extensions by the city engineer; provided, that an extension must be requested while connection rights are still valid, and shall only be granted for good cause shown and for the minimum period necessary to complete the connection; provided further, that the city engineer may impose a condition on any extension so as to require the applicant to immediately pay all capital improvement charges reasonably projected for the subject property (which payment shall be nonrefundable), and so as to require the applicant to immediately commence paying minimum service charges reasonably projected for the subject property (which payments shall be nonrefundable). Extensions provided for herein are privileges and not rights, and shall be granted or denied in the discretion of the city engineer. The decision of the city engineer shall be final. (Ord. 2606 § 1, 2005; Ord. 2375 § 7, 2001; Ord. 1431, 1985; Ord. 1267, 1982; Ord. 1242 § 6, 1982)

Section 2. Severability.

If any word, phrase, sentence, provision, or portion of this ordinance is declared to be invalid or unenforceable, it shall not affect validity or enforceability of the remaining words, phrases, sentences, provisions or portions of this ordinance.

PASSED by the City Council and APPROVED by the mayor this _____ day of _____, 2010.

CITY OF MARYSVILLE

Jon Nehring, Mayor

ATTEST:

Tracy Jeffries, City Clerk

APPROVED AS TO FORM

Grant K. Weed, City Attorney.

Date of Publication: _____