

**Marysville City Council Meeting****March 6, 2017****7:00 p.m.****City Hall****Call to Order****Invocation****Pledge of Allegiance****Roll Call****Approval of the Agenda****Committee Reports****Presentations**

A. Officer Swearing-In

B. Code Enforcement Presentation

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

1. Consider the February 13, 2017 City Council Meeting Minutes

**Consent**

2. Consider the February 22, 2017 Claims in the Amount of \$997,210.30; Paid by EFT Transactions and Check Numbers 114750 through 114954 with Check Numbers 111529 and 113638 Voided

**Review Bids****Public Hearings****New Business**

3. Consider the Alliance for Housing Affordability Fiscal Year 2018 Budget and Work Plan with a Contribution Totaling \$6,085.00

4. Consider the Update to the 2017-2022 Capital Facilities Plan with Formal Action Requested at the March 27, 2017 City Council Meeting.

5. Consider the Lakewood Neighborhood Master Plan with Formal Action Requested at the on March 27, 2017 City Council Meeting

6. Consider the Application for Snohomish Running Company to Conduct a Special Event on Sunday, April 9, 2017, including the Temporary Street Closure of Northbound SR529/State Avenue to 2nd Street, the Eastbound Lane of 2nd Street from State Avenue to Alder Avenue, the Southbound Lane of Alder Avenue from 2nd Street to the

## Marysville City Council Meeting

**March 6, 2017**

**7:00 p.m.**

**City Hall**

South Side of 1st Street, Both Lanes of Columbia Avenue from the South Side of 1st Street to 2nd Street, and 1st Street from Columbia Avenue to State Avenue, as Requested by the Applicant

7. Consider Amendment to Paymentus Corporation Agreement
8. Consider Agreement with Gravity Payments, Inc. and Wells Fargo Bank N.A. for Merchant Services
9. Consider the Substitute Professional Services Agreement between City of Marysville and Billing Document Specialists
10. Consider the Local Agency Supplemental Funding Agreement No. 2 with WSDOT for the Grove Street Pedestrian and Bicycle Improvements (State Ave to Cedar Ave).
11. Consider Amending the City's Municipal Code and Development Regulations by Amending Sections 22A.020.050, 22A.020.070, and 22A.020.200 of MMC Chapter 22A.020, Definitions; Amending Sections 22C.010.060, 22C.010.070, 22C.010.090, 22C.010.210, and 22C.010.220 of MMC Chapter 22C.010, Residential Zones; Amending Sections 22C.020.060, 22C.020.070, and 22C.020.190 of MMC Chapter 22C.020, Commercial, Industrial, Recreation and Public Institutional Zones; Amending Section 22C.130.030 of MMC Chapter 22C.130 Parking and Loading; Amending Section 22C.160.080 of MMC Chapter 22C.160 Signs; Amending Section 22G.080.100 Of MMC Chapter 22G.080 Planned Residential Developments; and Amending Section 22A.010.160 of MMC Chapter 22A.010, General Administration, Related to Tracking Amendments to the City's Uniform Development Code
12. Consider a **Resolution** of the City Council of the City of Marysville, Washington, Relinquishing All Interest in the Real Property Located at 3020 Rucker Avenue in Everett, Washington, to the Snohomish Health District
13. Consider an **Ordinance** Amending Chapter 11.37 of the Municipal Code Regarding Qualifications for Tow Truck Operators

### Legal

#### Mayor's Business

14. Reappointment to the Parks, Culture, and Recreation Board; Katherine Smith

### Staff Business

### Call on Councilmembers

### Adjournment/Recess

### Executive Session

**Marysville City Council Meeting****March 6, 2017****7:00 p.m.****City Hall**

- A. Litigation
- B. Personnel
- C. Real Estate

**Reconvene****Adjournment**

Special Accommodations: The City of Marysville strives to provide accessible meetings for people with disabilities. Please contact the City Clerk's office 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.

# *Index #1*

<b>Call to Order/Pledge of Allegiance/Roll Call</b>	7:00 p.m.
Excuse the absence of Councilmember Rob Toyer	Approved
<b>Approval of the Agenda</b>	Approved
<b>Committee Reports</b>	
<b>Presentations</b>	
Officers Swearing-In	Presented
Volunteer of the Month – February - Zoe Wlasklak	Presented
<b>Audience Participation</b>	
<b>Approval of Minutes</b>	
Consider the January 3, 2017 City Council Work Session Minutes	Approved
Consider the January 9, 2017 City Council Meeting Minutes	Approved
<b>Consent Agenda</b>	
Consider the January 20, 2017 Payroll in the Amount \$1,345,339.82; Paid by EFT Transactions and Check Numbers 30502 through 30533	Approved
Consider the January 25, 2017 Claims in the Amount of \$665,869.39; Paid by EFT Transactions and Check Numbers 114072 through 114267 with No Checks Voided	Approved
Consider the February 1, 2017 Claims in the Amount of \$416,122.44; Paid by EFT Transactions and Check Numbers 114268 through 114391 with Check Number 114069 Voided	Approved
Consider the February 3, 2017 Payroll in the Amount \$1,747,993.61; Paid by EFT Transactions and Check Numbers 30534 through 30566	Approved
<b>Review Bids</b>	
<b>Public Hearings</b>	
<b>New Business</b>	
Consider the Professional Services Agreement with Berger ABAM, Inc. for the First Street Bypass Project for \$1,595,421.00	Approved
Consider Amendment No. 1 to Interlocal Cooperation Agreement for the Use of a Mobile Communications Vehicle with Snohomish County	Approved
Consider the Snohomish County Human Services Department Grant in the Amount of \$15,000.00	Approved
Consider the Professional Services Agreement between the City of Marysville and K2 Data Systems, Inc. in the Amount of \$49,500.00 for SCADA Support Services	Approved
Consider the Interlocal Agreement with the Marysville School District related to the District's use of Automated School Bus Safety Cameras	Approved
Consider Supplemental Agreement No. 1 to Professional Services Agreement with Makers Architecture for the Lakewood Neighborhood Master Plan	Approved
Consider an Ordinance Authorizing the City of Marysville to Continue to Impose a Sales and Use Tax as Authorized by RCW 82.14.415 as a Credit against State Sales and Use Tax; Certifying the Costs to Provide Municipal Services to the Central Marysville Annexation Area; and Setting a New Threshold Amount for Fiscal Year 2017 Relating to Annexations	Approved Ord. No. 3048
Consider an Ordinance Amending Section 2.50.050 to Clarify the Role of	Approved

the Salary Commission and Repealing Reimbursement for Meetings	Ord. No. 3049
<b>Legal</b>	
<b>Mayor's Business</b>	
Approve the Mayor's recommendation to reappoint Michael Stevens to the Snohomish County Board with Kamilie Norton as backup.	Approved
<b>Staff Business</b>	
<b>Call on Councilmembers</b>	
Adjournment	8:45 p.m.

COUNCIL*DRAFT*  
MINUTES

**Regular Meeting**  
February 13, 2017

### **Call to Order / Pledge of Allegiance**

Mayor Nehring called the meeting to order at 7:00 p.m. Pastor Judi Johnston of Jake's House Church gave the invocation, and Mayor Nehring 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:** Steve Muller, Kamille Norton, Jeff Seibert, Michael Stevens, Jeff Vaughan, and Donna Wright

**Absent:** Rob Toyer

**Also Present:** Chief Administrative Officer Gloria Hirashima, Finance Director Sandy Langdon, Police Chief Rick Smith, City Attorney Jon Walker, Public Works Director Kevin Nielsen, Parks and Recreation Director Jim Ballew, Community Development Director Dave Koenig, Fire Chief Martin McFalls, and Recording Secretary Laurie Hugdahl.

**Motion** made by Councilmember Norton, seconded by Councilmember Muller, to excuse Councilmember Toyer. **Motion** passed unanimously (6-0).

**Motion** made by Councilmember Muller, seconded by Councilmember Stevens, to approve the agenda. **Motion** passed unanimously (6-0).

### **Committee Reports**

### **Presentations**

## A. Officers Swearing-In

The following officers were introduced and sworn in:

### New Hires:

- Custody Officer Sara Oberholtzer
- Custody Officer Daniel White

### Promotions:

- Sergeant Jon Elton
- Sergeant Kawika Davis
- Commander Brad Akau
- Commander Larry Buell
- Commander Mark Thomas
- Assistant Chief Jeff Goldman

## B. Volunteer of the Month

Zoe Wlakkak was recognized as Volunteer of the Month for the month of February for her outstanding community service leading the Marysville Emergency Cold Weather Shelter.

## C. Strawberry Festival Royalty Candidates

### April Friesner Scholarship Royalty

Katie Raynaud introduced the candidates for Strawberry Festival Royalty who made their speeches:

- Denise Jacobsen
- Harman Uppal
- Sarah Turrall
- Summer Frisby

## **Audience Participation**

### **Approval of Minutes**

1. Consider the January 3, 2017 City Council Work Session Minutes

**Motion** made by Councilmember Stevens, seconded by Councilmember Vaughan, to approve the January 3, 2017 City Council Work Session Minutes. **Motion** passed unanimously (6-0).



2. Consider the January 9, 2017 City Council Meeting Minutes

**Motion** made by Councilmember Muller, seconded by Councilmember Norton, to approve the January 9, 2017 City Council Meeting Minutes. **Motion** passed unanimously (6-0).

### **Consent**

3. Consider the January 20, 2017 Payroll in the Amount \$1,345,339.82; Paid by EFT Transactions and Check Numbers 30502 through 30533
4. Consider the January 25, 2017 Claims in the Amount of \$665,869.39; Paid by EFT Transactions and Check Numbers 114072 through 114267 with No Checks Voided
13. Consider the February 1, 2017 Claims in the Amount of \$416,122.44; Paid by EFT Transactions and Check Numbers 114268 through 114391 with Check Number 114069 Voided
14. Consider the February 3, 2017 Payroll in the Amount \$1,747,993.61; Paid by EFT Transactions and Check Numbers 30534 through 30566

**Motion** made by Councilmember Vaughan, seconded by Councilmember Wright, to approve Consent Agenda items 3, 4, 13, and 14. **Motion** passed unanimously (6-0).

### **Review Bids**

### **Public Hearings**

### **New Business**

5. Consider the Professional Services Agreement with Berger ABAM, Inc. for the First Street Bypass Project for \$1,595,421.00

Director Nielsen reviewed this item.

**Motion** made by Councilmember Norton, seconded by Councilmember Stevens, to authorize the Mayor to sign and execute the Professional Services Agreement with Berger ABAM, Inc. for the First Street Bypass Project for \$1,595,421.00. **Motion** passed unanimously (6-0).

6. Consider Amendment No. 1 to Interlocal Cooperation Agreement for the Use of a Mobile Communications Vehicle with Snohomish County

City Attorney Walker explained that this is a renewal of an existing agreement.

*DRAFT*

**Motion** made by Councilmember Vaughan, seconded by Councilmember Muller, to authorize the Mayor to sign Amendment No. 1 to Interlocal Cooperation Agreement for the Use of a Mobile Communications Vehicle with Snohomish County. **Motion** passed unanimously (6-0).

7. Consider the Snohomish County Human Services Department Grant in the Amount of \$15,000.00

Director Ballew explained that this is a \$4,000 increase in grant funding from the county.

**Motion** made by Councilmember Wright, seconded by Councilmember Norton, to authorize the Mayor to sign the Snohomish County Human Services Department Grant in the Amount of \$15,000.00. **Motion** passed unanimously (6-0).

8. Consider the Professional Services Agreement between the City of Marysville and K2 Data Systems, Inc. in the Amount of \$49,500.00 for SCADA Support Services

Director Nielsen explained that a lot of data needs to be converted over to the new system. This would also provide for backup personnel if needed.

**Motion** made by Councilmember Vaughan, seconded by Councilmember Wright, to authorize the Mayor to sign and execute the Professional Services Agreement between the City of Marysville and K2 Data Systems, Inc. in the Amount of \$49,500.00 for SCADA Support Services. **Motion** passed unanimously (6-0).

9. Consider the Interlocal Agreement with the Marysville School District related to the District's use of Automated School Bus Safety Cameras

City Attorney Walker explained that this is an Interlocal agreement that came about due to a change in legislation which allows school districts to essentially have red light cameras on school buses. It would provide for cameras on school buses to photograph people who pass buses that have their flags out. The Interlocal Agreement explained that the new Interlocal Agreement is needed because the police are involved in approving the citations and the court is involved in processing them. This would provide clarification related to that.

Councilmember Norton asked if the City would be announcing this to the public. CAO Hirashima noted that the school board took action on this at their board meeting a couple weeks ago. Connie stated that the school district will be taking the lead on communications, but the City is discussing its responsibilities. Councilmember Norton suggested providing a refresher about when people need to stop.

Councilmember Seibert asked what the money from the infractions is used for. City Attorney Walker thought that it goes back into the school safety fund. CAO Hirashima noted that the City will be charging a fee for the court processing fee involved. Any additional funds go back to the school district for enhancing school safety.

Councilmember Seibert asked about an appeal process. City Attorney Walker explained that there is a process for a hearing.

Councilmember Muller asked if this is the same program that is used by the crossing guards where they can report individuals who don't stop. CAO Hirashima explained that this is just a program that allows cameras to work with the school buses and the city.

Councilmember Vaughan asked how infractions handled outside the city limits would be handled. City Attorney Walker explained that those would not be handled through Marysville's courts. Only photos taken within city limits would be handled through Marysville due to jurisdictional issues.

**Motion** made by Councilmember Muller, seconded by Councilmember Norton, to authorize the Mayor to sign the Interlocal Agreement with the Marysville School District related to the District's use of Automated School Bus Safety Cameras. **Motion** passed unanimously (6-0).

10. Consider Supplemental Agreement No. 1 to Professional Services Agreement with Makers Architecture for the Lakewood Neighborhood Master Plan

Community Development Director Koenig explained that the Planning Commission has finished its work on the Lakewood Neighborhood Master Plan. Based on input that was received through the public hearing process, some changes were made to the plan. This Supplemental Agreement would add a small amount of money to the contract with Makers to make those changes.

Councilmember Seibert expressed concern about approving this before seeing the changes recommended by the Planning Commission. CAO Hirashima explained that the draft was done externally from a consultant and the City doesn't have the ability to the edits and changes. She discussed the basis for this process. She commented that Makers has done similar projects for the City in the past.

Councilmember Vaughan explained that this just authorizes an additional \$2200 to make the changes recommended by the Planning Commission.

**Motion** made by Councilmember Stevens, seconded by Councilmember Wright, to authorize the Mayor to sign the Supplemental Agreement No. 1 to Professional Services Agreement with Makers Architecture for the Lakewood Neighborhood Master Plan **Motion** passed (5-1) with Councilmember Seibert voting against the motion.

11. Consider an **Ordinance** Authorizing the City of Marysville to Continue to Impose a Sales and Use Tax as Authorized by RCW 82.14.415 as a Credit against State Sales and Use Tax; Certifying the Costs to Provide Municipal Services to the Central Marysville Annexation Area; and Setting a New Threshold Amount for Fiscal Year 2017 Relating to Annexations

Finance Director Langdon explained that this is not an additional tax; it is coming from the state tax. Mayor Nehring added that this is part of the agreement for the annexation.

**Motion** made by Councilmember Wright, seconded by Councilmember Seibert, to adopt Ordinance No. 3048. **Motion** passed unanimously (6-0).

12. Consider an **Ordinance** Amending Section 2.50.050 to Clarify the Role of the Salary Commission and Repealing Reimbursement for Meetings

City Attorney Walker explained that this is a clarifying and housekeeping ordinance.

Councilmember Vaughan asked if this would change the way that councilmembers are compensated. CAO Hirashima explained that the Salary Commission wanted to do a meeting inclusive salary, so this would eliminate meeting reimbursement.

**Motion** made by Councilmember Norton, seconded by Councilmember Stevens, to adopt Ordinance No. 3049. **Motion** passed unanimously (6-0).

## Legal

### Mayor's Business

Mayor Nehring had the following comments:

- There were nice ribbon cuttings with Sleep Number and Worlds Beyond in the last couple weeks.
- Economic Alliance of Snohomish County had their Snohomish County lobby days last Friday. There was a great turnout of people who met with elected officials to lay out the agenda for the County. The Association of Washington Cities will be having their lobby days this week. A number of councilmembers will be heading down for that.
- It was great to see the Boy Scouts in attendance tonight.
- He appreciated seeing folks here that were also at the Coffee Klatch at Fire Station 62 tonight. He enjoys getting the feedback from citizens at those.
- Snohomish County Tomorrow Board needs reappointment. He recommended Councilmember Stevens for reappointment with Councilmember Norton as a backup.

**Motion** made by Councilmember Muller, seconded by Councilmember Wright, to reappoint Michael Stevens to the Snohomish County Board with Kamille Norton as backup. **Motion** passed unanimously (6-0).

### Staff Business

Chief Smith:

- There will be a Public Safety meeting on February 22.
- Community Service Unit and Code Enforcement are out working hard. He is expecting a report to be ready for the Mayor and Council soon.
- Citizens Academy last week went very well.

Sandy Langdon announced that the Finance Committee agenda for Wednesday is very light. There was consensus to cancel it.

Kevin Nielsen thanked Zoe Wlasklak for her service to the community and congratulated Chief Smith for all his promotions.

Jim Ballew:

- He thanked Zoe Wlasklak for her service. He commended the work she does.
- Father-Daughter Dance had over 850 people. It has been a great event. Thanks to the Kiwanis Club who comes out with their Key Club members to both weekends.
- Soccer spring league is registering now.
- There are a lot of activities happening at the Opera House.

Chief McFalls:

- Congratulations to Chief Smith for all the promotions.
- Thanks to Zoe Wlasklak for her sacrifice and service to the community.
- He complimented the Strawberry Royalty candidates.
- The Strawberry festival is in good hands with the leadership.
- He commended all the work that Parks and Rec is doing in the community.

Dave Koenig:

- He complimented the candidates for Strawberry Royalty.
- The Council passed an Ordinance a couple months ago to extend subdivisions up to two years because of expiration. There have been four subdivisions which have applied for that and have been approved. Staff is anticipating more.
- Councilmember Michael Stevens was at Snohomish County Tomorrow related to the regional senate effort. The final report from PSRC came out today. He discussed three possible alternatives for the Manufacturing Industrial Center, and stated that it will go to the steering committee in March for a recommendation to the PSRC.

### **Call on Councilmembers**

Councilmember Vaughan commented on all the good that happens in the community. He noted that anyone who doesn't see the good here isn't looking hard enough. He discussed the strong faith community, many volunteers, reduced crime and strong law enforcement. He expressed appreciation for all the things everyone does to make this a great community.

*DRAFT*

Donna Wright had no further comments.

Jeff Seibert had no further comments.

Michael Stevens had no further comments.

Steve Muller:

- He agreed with Councilmember Vaughan.
- He said he was glad that Marysville's Public Works employees weren't on the news tonight like Everett.
- Congratulations to everybody for all the hard work they do.
- There was an awesome meeting with the Tribes last week.

Kamille Norton:

- She thanked Zoe Wlasklak for the work that she does.
- Tonight's presentations were heartwarming and inspiring.

### **Adjournment**

Seeing no further business Mayor Nehring adjourned the meeting at 8:45 p.m.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

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Mayor  
Jon Nehring

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April O'Brien  
Deputy City Clerk

# *Index #2*

**CITY OF MARYSVILLE**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: March 6, 2017**

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.

<p>RECOMMENDED ACTION:</p> <p><b>The Finance and Executive Departments recommend City Council approve the February 22, 2017 claims in the amount of \$997,210.30 paid by EFT transactions and Check No. 114750 through 114954 with Check No.'s 111529 &amp; 113638 voided.</b></p> <p>COUNCIL ACTION:</p>
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**CLAIMS  
FOR  
PERIOD-2**

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 **\$997,210.30 PAID BY EFT TRANSACTIONS AND CHECK NO.'S 114750 THROUGH 114954 WITH CHECK NO.'S 111529 & 113638 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

\_\_\_\_\_  
DATE

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
DATE

WE, THE UNDERSIGNED COUNCIL MEMBERS OF MARYSVILLE, WASHINGTON DO HEREBY APPROVE FOR PAYMENT THE ABOVE MENTIONED **CLAIMS** ON THIS **6<sup>th</sup> DAY OF MARCH 2017.**

\_\_\_\_\_  
COUNCIL MEMBER

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COUNCIL MEMBER

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COUNCIL MEMBER

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COUNCIL MEMBER

**CITY OF MARYSVILLE  
 INVOICE LIST  
 FOR INVOICES FROM 2/16/2017 TO 2/22/2017**

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
114750	REVENUE, DEPT OF	SALES AND USE TAXES	CITY CLERK	0.12
	REVENUE, DEPT OF		COMMUNITY DEVELOPMENT-	1.58
	REVENUE, DEPT OF		WATER/SEWER OPERATION	31.00
	REVENUE, DEPT OF		POLICE ADMINISTRATION	42.51
	REVENUE, DEPT OF		RECREATION SERVICES	55.97
	REVENUE, DEPT OF		GOLF ADMINISTRATION	60.78
	REVENUE, DEPT OF		GARBAGE	62.44
	REVENUE, DEPT OF		GENERAL FUND	650.41
	REVENUE, DEPT OF		GOLF COURSE	1,775.91
	REVENUE, DEPT OF		STORM DRAINAGE	4,890.03
	REVENUE, DEPT OF		SOLID WASTE OPERATIONS	21,512.24
	REVENUE, DEPT OF		UTIL ADMIN	58,650.87
114751	ABLE LABEL INC	LABELS AND RIBBON	ER&R	361.58
114752	ACLARA TECHNOLOGIES	ANTENNA, CABLES AND BASE ASSEM	WATER SERVICES	425.82
114753	ADDINGTON, EUGENE	UTILITY TAX REBATE	NON-DEPARTMENTAL	33.94
	ADDINGTON, EUGENE		UTIL ADMIN	40.00
	ADDINGTON, EUGENE		UTIL ADMIN	149.10
114754	ADVANTAGE BUILDING S	JANITORIAL SERVICE	WATER FILTRATION PLANT	81.19
	ADVANTAGE BUILDING S		COMMUNITY CENTER	811.88
	ADVANTAGE BUILDING S		WASTE WATER TREATMENT F	811.88
	ADVANTAGE BUILDING S		UTIL ADMIN	811.88
	ADVANTAGE BUILDING S		COURT FACILITIES	1,217.81
	ADVANTAGE BUILDING S		CITY HALL	1,217.81
	ADVANTAGE BUILDING S		PUBLIC SAFETY BLDG	1,510.09
	ADVANTAGE BUILDING S		MAINT OF GENL PLANT	1,623.74
	ADVANTAGE BUILDING S		PARK & RECREATION FAC	3,653.43
114755	ALF, SAMANTHA	RENTAL DEPOSIT REFUND	GENERAL FUND	100.00
114756	ALL BATTERY SALES &	BATTERIES	EQUIPMENT RENTAL	102.68
114757	AMERICAN RED CROSS	FIRST AID/CPR/BLOODBORNE PATHO	EXECUTIVE ADMIN	490.00
114758	ARAMARK UNIFORM	UNIFORM SERVICE	SMALL ENGINE SHOP	6.55
	ARAMARK UNIFORM		SMALL ENGINE SHOP	6.55
	ARAMARK UNIFORM		SMALL ENGINE SHOP	6.55
	ARAMARK UNIFORM		EQUIPMENT RENTAL	69.11
	ARAMARK UNIFORM		EQUIPMENT RENTAL	69.11
	ARAMARK UNIFORM		EQUIPMENT RENTAL	69.11
	ARAMARK UNIFORM	LINEN SERVICE	OPERA HOUSE	119.94
114759	ARI PHOENIX INC	REPAIR VEHICLE LIFTS	ER&R	-170.96
	ARI PHOENIX INC		EQUIPMENT RENTAL	2,049.63
114760	ARLINGTON HARDWARE	JEANS-OSBORNE	GENERAL SERVICES - OVERH	147.25
	ARLINGTON HARDWARE	BOOTS-OSBORNE	GENERAL SERVICES - OVERH	196.36
114761	ASSN OF WA CITIES	2017 MEMBERSHIP FEES	NON-DEPARTMENTAL	45,312.00
114762	BANK OF AMERICA	TRAVEL REIMBURSEMENT	RECREATION SERVICES	30.00
114763	BANK OF AMERICA	MEAL REIMBURSEMENT	EXECUTIVE ADMIN	59.80
114764	BANK OF AMERICA	REGISTRATION REIMBURSEMENT	CITY COUNCIL	35.00
	BANK OF AMERICA		EXECUTIVE ADMIN	35.00
114765	BANK OF AMERICA	TRAINING REIMBURSEMENT	UTIL ADMIN	75.00
114766	BANK OF AMERICA	SUPPLY REIMBURSEMENT	OFFICE OPERATIONS	158.37
114767	BANK OF AMERICA		COMMUNITY EVENTS	14.16
	BANK OF AMERICA		OPERA HOUSE	17.61
	BANK OF AMERICA		OPERA HOUSE	21.81
	BANK OF AMERICA		OPERA HOUSE	232.97
114768	BANK OF AMERICA	CONFERENCE/DUE REIMBURSEMENT	CITY COUNCIL	200.00
	BANK OF AMERICA		EXECUTIVE ADMIN	200.00
114769	BANK OF AMERICA	SUPPLY REIMBURSEMENT	GARBAGE	-31.00
	BANK OF AMERICA		UTIL ADMIN	93.24
	BANK OF AMERICA		SOLID WASTE OPERATIONS	371.70
114770	BANK OF AMERICA		LEGAL-GENL	10.46
	BANK OF AMERICA		LEGAL - PROSECUTION	30.00
	BANK OF AMERICA		GMA - STREET	37.92
	BANK OF AMERICA		LEGAL-GENL	49.80
	BANK OF AMERICA		LEGAL - PROSECUTION	161.95

**CITY OF MARYSVILLE  
 INVOICE LIST  
 FOR INVOICES FROM 2/16/2017 TO 2/22/2017**

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
114770	BANK OF AMERICA	SUPPLY REIMBURSEMENT	LEGAL-GENL	195.00
114771	BANK OF AMERICA		UTILITY BILLING	21.95
	BANK OF AMERICA		CITY CLERK	43.51
	BANK OF AMERICA		FINANCE-GENL	43.51
	BANK OF AMERICA		POLICE ADMINISTRATION	58.31
	BANK OF AMERICA		COMPUTER SERVICES	420.87
114772	BANK OF AMERICA		PRO-SHOP	62.33
	BANK OF AMERICA		RECREATION SERVICES	127.41
	BANK OF AMERICA		RECREATION SERVICES	140.20
	BANK OF AMERICA		OPERA HOUSE	278.65
	BANK OF AMERICA		RECREATION SERVICES	282.96
114773	BANK OF AMERICA		GENERAL FUND	-165.93
	BANK OF AMERICA		POLICE INVESTIGATION	19.73
	BANK OF AMERICA		POLICE ADMINISTRATION	21.82
	BANK OF AMERICA		YOUTH SERVICES	35.58
	BANK OF AMERICA		POLICE PATROL	131.89
	BANK OF AMERICA		K9 PROGRAM	200.00
	BANK OF AMERICA		POLICE PATROL	585.73
	BANK OF AMERICA		POLICE ADMINISTRATION	1,650.61
114774	BANK OF AMERICA	TRAVEL/TRAINING REIMBURSEMENT	POLICE INVESTIGATION	490.40
	BANK OF AMERICA		YOUTH SERVICES	1,271.60
	BANK OF AMERICA		POLICE PATROL	1,690.54
	BANK OF AMERICA		POLICE TRAINING-FIREARMS	3,074.94
114775	BRADSHAW, RUBY	UTILITY TAX REBATE	NON-DEPARTMENTAL	40.13
114776	BRUCE, PATRICIA		NON-DEPARTMENTAL	78.94
114777	C R HARNDEN CO INC	TREES	ROADSIDE VEGETATION	850.83
114778	CARDWELL, IRATXE	INTERPRETER SERVICES	COURTS	100.00
	CARDWELL, IRATXE		COURTS	150.00
114779	CASCADE COLUMBIA	ALUMINUM CHLORIDE	WASTE WATER TREATMENT F	11,533.84
114780	CCG SYSTEMS INC	ANNUAL UPGRADE AND SUPPORT SER	EQUIPMENT RENTAL	9,745.96
114781	CECSARINI, MARY	UTILITY TAX REBATE	NON-DEPARTMENTAL	47.90
114782	CEMEX	ASPHALT	ROADWAY MAINTENANCE	139.53
	CEMEX		ROADWAY MAINTENANCE	274.93
	CEMEX		ROADWAY MAINTENANCE	346.73
114783	CENTRAL WELDING SUPP	SHOVELS AND TOWELS	ER&R	338.54
	CENTRAL WELDING SUPP	JACKETS	ER&R	400.62
	CENTRAL WELDING SUPP	GLOVES	ER&R	429.93
114784	CLEAN CRAWLS INC.	ATTIC/RESTROOM PROJECT	GMA-PARKS	1,038.63
114785	CLEAR IMAGE PHOTOGRA	DANCE PHOTOGRAPHY	RECREATION SERVICES	1,283.56
114786	CONSOLIDATED PRESS	CITYSCENE NEWSLETTER	UTILITY BILLING	1,282.58
114787	COON, MELVIN	UTILITY TAX REBATE	NON-DEPARTMENTAL	68.05
114788	COOP SUPPLY	STRAWBALES	PARK & RECREATION FAC	26.16
	COOP SUPPLY	FERTILIZER, HOE, POSTS AND LOC	ROADSIDE VEGETATION	83.32
	COOP SUPPLY	FLASHLIGHTS AND STRAWBALES	PARK & RECREATION FAC	126.46
	COOP SUPPLY	ICE MELT	PARK & RECREATION FAC	139.56
114789	CORRECTIONS, DEPT OF	INMATE MEALS	DETENTION & CORRECTION	3,594.30
	CORRECTIONS, DEPT OF		DETENTION & CORRECTION	3,816.50
114790	COSTA, RIETTA	INSTRUCTOR SERVICES	COMMUNITY CENTER	40.50
114791	CTS LANGUAGE LINK	INTERPRETER SERVICES	COURTS	10.10
	CTS LANGUAGE LINK		COURTS	101.31
114792	DAVIS, EIKO	UTILITY TAX REBATE	NON-DEPARTMENTAL	76.90
114793	DEMCHENKO, SERGEY &	UB 849000267102 8017 65TH DR N	WATER/SEWER OPERATION	1,314.36
114794	DEMMIG, ALICE	UTILITY TAX REBATE	NON-DEPARTMENTAL	45.97
114795	DICKS TOWING	TOWING EXPENSE-ECONOLINE	POLICE PATROL	43.64
	DICKS TOWING	TOWING EXPENSE-MP16-40449	POLICE PATROL	43.64
	DICKS TOWING	TOWING EXPENSE-MP16-56847	POLICE PATROL	43.64
	DICKS TOWING	TOWING EXPENSE-MP16-61611	POLICE PATROL	43.64
	DICKS TOWING	TOWING EXPENSE-MP17-02145	POLICE PATROL	43.64
	DICKS TOWING	TOWING EXPENSE-MP17-02625	POLICE PATROL	43.64
	DICKS TOWING	TOWING EXPENSE-MP17-02690	POLICE PATROL	43.64
	DICKS TOWING	TOWING EXPENSE-MP17-02765	POLICE PATROL	43.64

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114795	DICKS TOWING	TOWING EXPENSE-MP17-02875	POLICE PATROL	43.64
	DICKS TOWING	TOWING EXPENSE-MP17-03282	POLICE PATROL	43.64
	DICKS TOWING	TOWING EXPENSE-MP17-03308	POLICE PATROL	43.64
	DICKS TOWING	TOWING EXPENSE-MP17-03353	POLICE PATROL	43.64
	DICKS TOWING	TOWING EXPENSE-MP17-03384	POLICE PATROL	43.64
	DICKS TOWING	TOWING EXPENSE-MP17-03592	POLICE PATROL	43.64
	DICKS TOWING	TOWING EXPENSE-MP17-04404	POLICE PATROL	43.64
	DICKS TOWING	TOWING EXPENSE-MP17-04486	POLICE PATROL	43.64
	DICKS TOWING	TOWING EXPENSE-MP17-04634	POLICE PATROL	43.64
	DICKS TOWING	TOWING EXPENSE-MP17-04859	POLICE PATROL	43.64
114796	DIGITAL DOLPHIN SUPP	TONER	GENERAL FUND	-6.94
	DIGITAL DOLPHIN SUPP		POLICE ADMINISTRATION	83.11
114797	DINGMAN, CHRISTINA	UTILITY TAX REBATE	NON-DEPARTMENTAL	11.36
	DINGMAN, CHRISTINA		UTIL ADMIN	40.00
	DINGMAN, CHRISTINA		UTIL ADMIN	189.64
114798	DISPLAY & COSTUME	DANCE SUPPLY CREDIT	RECREATION SERVICES	-50.67
	DISPLAY & COSTUME	DANCE SUPPLIES	RECREATION SERVICES	115.48
	DISPLAY & COSTUME		RECREATION SERVICES	304.01
114799	DULIN, PATRICIA	UTILITY TAX REBATE	NON-DEPARTMENTAL	28.23
	DULIN, PATRICIA		UTIL ADMIN	40.00
	DULIN, PATRICIA		UTIL ADMIN	149.10
114800	DUPRE, ROBERTA		NON-DEPARTMENTAL	13.54
	DUPRE, ROBERTA		UTIL ADMIN	40.00
	DUPRE, ROBERTA		UTIL ADMIN	149.10
114801	E&E LUMBER	PLUGS	MAINT OF GENL PLANT	3.66
	E&E LUMBER		SOLID WASTE OPERATIONS	3.66
	E&E LUMBER	TAPE	PARK & RECREATION FAC	4.18
	E&E LUMBER	SAW AND WHEEL	MAINT OF GENL PLANT	14.13
	E&E LUMBER		SOLID WASTE OPERATIONS	14.13
	E&E LUMBER	SANDING SUPPLIES	OPERA HOUSE	14.79
	E&E LUMBER	FIXALL AND COMPOUND	SOLID WASTE OPERATIONS	17.26
	E&E LUMBER		MAINT OF GENL PLANT	17.27
	E&E LUMBER	ICE MELT	PARK & RECREATION FAC	29.42
	E&E LUMBER	WHEELS AND SHACKLES	STORM DRAINAGE	32.22
	E&E LUMBER	PLUMBING SUPPLIES	GMA-PARKS	35.58
	E&E LUMBER	PIPE	PARK & RECREATION FAC	39.23
	E&E LUMBER	SANDER AND SCISSORS	PARK & RECREATION FAC	39.78
	E&E LUMBER	PIPE	PARK & RECREATION FAC	41.46
	E&E LUMBER	MOPS	OPERA HOUSE	46.05
	E&E LUMBER	PAINT AND SUPPLIES	PARK & RECREATION FAC	92.31
	E&E LUMBER	ROLLER AND DISC	PARK & RECREATION FAC	97.32
	E&E LUMBER	FURNITURE RESTORE PRODUCTS	OPERA HOUSE	115.96
	E&E LUMBER	PLUMBING SUPPLIES	GMA-PARKS	140.39
	E&E LUMBER	BROOM, HAMMER AND BIT	PARK & RECREATION FAC	152.63
	E&E LUMBER	LUMBER	MAINT OF GENL PLANT	241.60
	E&E LUMBER		SOLID WASTE OPERATIONS	241.60
	E&E LUMBER	FENCE REPAIR SUPPLIES	PARK & RECREATION FAC	500.77
114802	EAGLE FENCE	GATE STOPPER	OPERA HOUSE	109.10
114803	EB BRADLEY CO	BRACKETS	SOLID WASTE OPERATIONS	157.51
	EB BRADLEY CO		MAINT OF GENL PLANT	157.51
114804	EMERALD HILLS	COFFEE SUPPLIES	OPERA HOUSE	30.25
	EMERALD HILLS		BAXTER CENTER APPRE	64.80
114805	ERDL, LINNIE	UTILITY TAX REBATE	UTIL ADMIN	40.00
	ERDL, LINNIE		NON-DEPARTMENTAL	58.99
	ERDL, LINNIE		UTIL ADMIN	189.64
114806	ESRI	ARCGIS ADVANCED LICENSE	ENGR-GENL	9,288.77
114807	EVERETT BAYSIDE	EMERGENCY KILL SWITCH	EQUIPMENT RENTAL	77.18
114808	EVERETT OFFICE	COUNCIL CHAMBER TABLE	CITY COUNCIL	540.05
114809	EVERETT TIRE & AUTO	TIRES	ER&R	599.59
114810	EVERGREEN STATE	INSTALL TRANE HEAT PUMP W/DUCT	SOLID WASTE OPERATIONS	8,700.72
	EVERGREEN STATE		MAINT OF GENL PLANT	8,700.73

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114811	EWING IRRIGATION	FERTILIZER	PARK & RECREATION FAC	133.22
114812	FINLEY, JOSEPH	REIMBURSE MILEAGE	COMPUTER SERVICES	55.90
114813	FIRE PROTECTION INC FIRE PROTECTION INC	MONITORING FEES	PUBLIC SAFETY BLDG	408.00
114814	FRASER, SUSAN	UTILITY TAX REBATE	GOLF ADMINISTRATION	529.50
114815	GALLS, LLC GALLS, LLC	FLASHLIGHT	NON-DEPARTMENTAL	46.14
114816	GARCIA, YANETH	RENTAL DEPOSIT REFUND	POLICE ADMINISTRATION	163.30
114817	GILBERT, CHARLES	UTILITY TAX REBATE	POLICE PATROL	163.51
114818	GOVCONNECTION INC	HEADSET	GENERAL FUND	100.00
114819	GREEN RIVER CC GREEN RIVER CC GREEN RIVER CC GREEN RIVER CC GREEN RIVER CC	WATER MAIN INSTALL TRAINING-GE  WATER MAIN INSTALL TRAINING-GU WATER MAIN INSTALL TRAINING-ST CROSS CONN CONTROL TRAINING-BR	MUNICIPAL COURTS	242.20
114820	GREENHAUS PORTABLE GREENHAUS PORTABLE	PORTABLE SERVICE	UTIL ADMIN	300.00
114821	GREENSHIELDS	FITTING	UTIL ADMIN	300.00
114822	HACK, SUNDEE HACK, SUNDEE HACK, SUNDEE	UTILITY TAX REBATE	UTIL ADMIN	300.00
114823	HALL, DAVE	REIMBURSE TRAVEL EXPENSE	UTIL ADMIN	300.00
114824	HARBOR FREIGHT TOOLS	SMALL TOOLS	UTIL ADMIN	450.00
114825	HARPER, DOROTHY	UTILITY TAX REBATE	PARK & RECREATION FAC	110.00
114826	HAYNES, SANDRA		GMA-PARKS	380.00
114827	HD FOWLER COMPANY HD FOWLER COMPANY HD FOWLER COMPANY	PLUMBING SUPPLIES REPAIR CLAMPS METER SETTERS	SEWER MAIN COLLECTION	18.78
114828	HEALTH, DEPT OF HEALTH, DEPT OF	WATERSHED REPORT WATER SYSTEMS PROJECT REPORT	UTIL ADMIN	40.00
114829	HEWLETT PACKARD HEWLETT PACKARD HEWLETT PACKARD HEWLETT PACKARD HEWLETT PACKARD HEWLETT PACKARD HEWLETT PACKARD HEWLETT PACKARD HEWLETT PACKARD HEWLETT PACKARD HEWLETT PACKARD	PRINTER SUPPORT	NON-DEPARTMENTAL	53.27
114830	HINE, DONALD HINE, DONALD HINE, DONALD	UTILITY TAX REBATE	UTIL ADMIN	149.10
114831	HOLLIBAUGH, CHARLENE		NON-DEPARTMENTAL	44.44
114832	HOME DEPOT	TILE AND TOWELS	PARK & RECREATION FAC	44.44
114833	HUMAN SERVICES	LIQUOR BOARD PROFITS/EXCISE TA	WATER RESERVOIRS	409.68
114834	HYLARIDES, LETTIE	INTERPRETER SERVICES	NON-DEPARTMENTAL	70.94
114835	INTERSTATE BATTERY	BATTERIES	NON-DEPARTMENTAL	72.27
114836	JAGGAR, LARRY	UTILITY TAX REBATE	PARK & RECREATION FAC	16.08
114837	JAMES W FOWLER CO	PAY ESTIMATE #10	WATER/SEWER OPERATION	555.47
114838	JOHNSON, DOROTHY	UTILITY TAX REBATE	WATER/SEWER OPERATION	570.10
114839	JURASIN, SHARON		SOURCE OF SUPPLY	204.00
114840	KNEBEL COMPANY	ASBESTOS SURVEY	UTIL ADMIN	3,705.00
114841	KUNKEL, ADOLPH	UTILITY TAX REBATE	POLICE PATROL	0.13
114842	KUPRIYANOVA, SVETLAN	INTERPRETER SERVICES	PARK & RECREATION FAC	9.83
114843	LANGUAGE EXCHANGE		CITY CLERK	12.68
114844	LARSEN, MARILYN LARSEN, MARILYN LARSEN, MARILYN	UTILITY TAX REBATE	FINANCE-GENL	12.68
114845	LAWSON, DONNA MAE LAWSON, DONNA MAE		WATER QUAL TREATMENT	39.25
			POLICE INVESTIGATION	43.07
			MUNICIPAL COURTS	69.01
			WASTE WATER TREATMENT F	85.86
			UTILITY BILLING	132.63
			COMPUTER SERVICES	348.28
			UTIL ADMIN	40.00
			NON-DEPARTMENTAL	71.82
			UTIL ADMIN	149.10
			NON-DEPARTMENTAL	65.98
			PARK & RECREATION FAC	39.64
			NON-DEPARTMENTAL	4,218.18
			COURTS	112.50
			ER&R	452.98
			NON-DEPARTMENTAL	86.34
			WATER CAPITAL PROJECTS	438,477.60
			NON-DEPARTMENTAL	47.94
			NON-DEPARTMENTAL	74.20
			GMA-PARKS	735.00
			NON-DEPARTMENTAL	54.18
			COURTS	150.00
			COURTS	219.60
			UTIL ADMIN	40.00
			NON-DEPARTMENTAL	52.07
			UTIL ADMIN	149.10
			UTIL ADMIN	40.00
			NON-DEPARTMENTAL	70.22

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114845	LAWSON, DONNA MAE	UTILITY TAX REBATE	UTIL ADMIN	149.10
114846	LEON, KATHY	RENTAL DEPOSIT REFUND	GENERAL FUND	100.00
114847	LEWANDOWSKI, JOE	UTILITY TAX REBATE	NON-DEPARTMENTAL	22.54
114848	LICENSING, DEPT OF	NOTARY LICENSE	OFFICE OPERATIONS	30.00
114849	LIE, OLAV	UTILITY TAX REBATE	NON-DEPARTMENTAL	53.25
114850	LOWES HIW INC	TOTES	ROADSIDE VEGETATION	40.36
	LOWES HIW INC	PATCH KIT, CHISEL LOCKS AND DR	MAINT OF GENL PLANT	68.50
	LOWES HIW INC		SOLID WASTE OPERATIONS	68.51
	LOWES HIW INC	BLINDS	PARK & RECREATION FAC	119.06
	LOWES HIW INC	POLY WALL BOARDS	GMA-PARKS	1,181.64
114851	MARYSVILLE FORD	WHEEL ASSEMBLIES	EQUIPMENT RENTAL	426.28
114852	MARYSVILLE PRINTING	BUSINESS CARDS	POLICE PATROL	127.48
	MARYSVILLE PRINTING	BUSINESS CARDS AND FOIL SHELLS	POLICE PATROL	664.80
114853	MARYSVILLE, CITY OF	UTILITY SERVICE-1635 GROVE ST	PUBLIC SAFETY BLDG	2,500.87
114854	MATTHEWS, NICOLE	RENTAL DEPOSIT REFUND	GENERAL FUND	200.00
114855	MCCORMICK, LAURIE	REFUND CLASS FEES	PARKS-RECREATION	40.00
114856	MCDUGALD, CHARLES J	UTILITY TAX REBATE	NON-DEPARTMENTAL	36.51
	MCDUGALD, CHARLES J		UTIL ADMIN	40.00
	MCDUGALD, CHARLES J		UTIL ADMIN	149.10
114857	MENNIE, CONNIE	MILEAGE REIMBURSEMENT	EXECUTIVE ADMIN	15.62
114858	MILLER, BARBARA	UTILITY TAX REBATE	UTIL ADMIN	40.00
	MILLER, BARBARA		NON-DEPARTMENTAL	88.71
	MILLER, BARBARA		UTIL ADMIN	149.10
114859	MILLER, PENNY		UTIL ADMIN	40.00
	MILLER, PENNY		NON-DEPARTMENTAL	66.29
	MILLER, PENNY		UTIL ADMIN	149.10
114860	MINTON, EVA		NON-DEPARTMENTAL	85.70
114861	MORRISON, JUDY		NON-DEPARTMENTAL	12.86
	MORRISON, JUDY		UTIL ADMIN	40.00
	MORRISON, JUDY		UTIL ADMIN	149.10
114862	MOTOR TRUCKS	AIR DRYER ASSEMBLY	EQUIPMENT RENTAL	533.56
114863	MURRIL, JEAN	UTILITY TAX REBATE	NON-DEPARTMENTAL	95.59
114864	NATIONAL BARRICADE	PADDLE	TRANSPORTATION MANAGEM	86.03
	NATIONAL BARRICADE	PADDLES AND SIGNS	TRANSPORTATION MANAGEM	708.94
114865	NEFF, LILLIAN	UTILITY TAX REBATE	NON-DEPARTMENTAL	54.98
114866	NELLIGAN, DAVID		NON-DEPARTMENTAL	76.41
114867	NEXTWAREHOUSE	LAGOON PANEL SWITCH REPLACEMEN	WATER/SEWER OPERATION	-254.08
	NEXTWAREHOUSE		WATER/SEWER OPERATION	-145.60
	NEXTWAREHOUSE		WASTE WATER TREATMENT F	1,745.60
	NEXTWAREHOUSE		WASTE WATER TREATMENT F	3,046.08
114868	OFFICE DEPOT	OFFICE SUPPLIES	ENGR-GENL	7.60
	OFFICE DEPOT		UTIL ADMIN	7.61
	OFFICE DEPOT		UTIL ADMIN	20.28
	OFFICE DEPOT		ENGR-GENL	20.29
	OFFICE DEPOT		POLICE INVESTIGATION	20.73
	OFFICE DEPOT		STORM DRAINAGE	23.55
	OFFICE DEPOT		COMPUTER SERVICES	59.51
	OFFICE DEPOT		EQUIPMENT RENTAL	63.26
	OFFICE DEPOT		POLICE PATROL	75.90
	OFFICE DEPOT		GENERAL SERVICES - OVERH	77.45
	OFFICE DEPOT		LEGAL - PROSECUTION	104.70
	OFFICE DEPOT		LEGAL - PROSECUTION	107.28
	OFFICE DEPOT		COMMUNITY SERVICES UNIT	170.86
	OFFICE DEPOT		UTIL ADMIN	192.46
	OFFICE DEPOT		POLICE INVESTIGATION	192.91
	OFFICE DEPOT		POLICE PATROL	217.96
	OFFICE DEPOT		POLICE PATROL	294.02
	OFFICE DEPOT		POLICE INVESTIGATION	303.28
114869	OWEN EQUIPMENT	PRESSURE GAUGES	EQUIPMENT RENTAL	145.29
114870	PACIFIC POWER BATTER	BATTERY	COMPUTER SERVICES	34.91
	PACIFIC POWER BATTER		COMPUTER SERVICES	44.95

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114871	PACLAB	SCREENING	POLICE PATROL	15.50
114872	PAPE MACHINERY	OIL AND FUEL FILTERS	ER&R	277.74
114873	PARTS STORE, THE	SERPENTINE BELT	EQUIPMENT RENTAL	18.95
	PARTS STORE, THE	HD 30 OIL	SMALL ENGINE SHOP	32.86
	PARTS STORE, THE	FILTERS, WD40 AND ARMORALL	ER&R	197.93
	PARTS STORE, THE	FILTERS	ER&R	219.63
	PARTS STORE, THE	FILTERS AND BULBS	ER&R	507.93
	PARTS STORE, THE	FLUID	SOLID WASTE OPERATIONS	1,344.81
114874	PARTSMaster	CONVERSION KITS	EQUIPMENT RENTAL	622.03
114875	PATRYKUS, BRENDA	REFUND CLASS FEES	PARKS-RECREATION	40.00
114876	PEARSON, TIFFANIE		PARKS-RECREATION	60.00
114877	PENNEY, JOAN	ENTERTAINMENT 3/8/2017	OPERA HOUSE	300.00
114878	PENNINGTON, CINDY	RENTAL DEPOSIT REFUND	GENERAL FUND	200.00
114879	PETERSON,ROBERT&NANC	UTILITY TAX REBATE	NON-DEPARTMENTAL	92.14
114880	PETROCARD SYSTEMS	FUEL CONSUMED	ENGR-GENL	31.76
	PETROCARD SYSTEMS		STORM DRAINAGE	47.68
	PETROCARD SYSTEMS		EQUIPMENT RENTAL	56.51
	PETROCARD SYSTEMS		FACILITY MAINTENANCE	131.12
	PETROCARD SYSTEMS		COMMUNITY DEVELOPMENT-	408.84
	PETROCARD SYSTEMS		PARK & RECREATION FAC	526.41
	PETROCARD SYSTEMS		GENERAL SERVICES - OVERH	2,342.05
	PETROCARD SYSTEMS		MAINT OF EQUIPMENT	3,188.96
	PETROCARD SYSTEMS		SOLID WASTE OPERATIONS	3,860.78
	PETROCARD SYSTEMS		POLICE PATROL	5,862.73
114881	PILCHUCK RENTALS	FUEL CAPS	SMALL ENGINE SHOP	67.40
	PILCHUCK RENTALS	SHAFT DRIVE AND BLADES	SMALL ENGINE SHOP	119.44
	PILCHUCK RENTALS	LIFT RENTAL	SOLID WASTE OPERATIONS	409.12
	PILCHUCK RENTALS		MAINT OF GENL PLANT	409.13
	PILCHUCK RENTALS	GENERATOR AND WEEDEATER REPAIR	SMALL ENGINE SHOP	471.79
	PILCHUCK RENTALS	LIFT RENTAL	ROADWAY MAINTENANCE	856.43
114882	PLATT ELECTRIC	RETURN FUSES AND CONNECTORS	WATER RESERVOIRS	-99.26
	PLATT ELECTRIC	STUDS	WATER RESERVOIRS	15.06
	PLATT ELECTRIC	BULBS	PARK & RECREATION FAC	17.01
	PLATT ELECTRIC	WIRE	FACILITY MAINTENANCE	112.97
	PLATT ELECTRIC	COVERS, CONNECTORS AND SMALL T	TRANSPORTATION MANAGEM	128.37
	PLATT ELECTRIC	HOLE SAWS AND BIT HOLDER	FACILITY MAINTENANCE	131.31
	PLATT ELECTRIC	FUSES AND CONNECTORS	WATER RESERVOIRS	149.93
	PLATT ELECTRIC	CAT 5 WIRE HANGERS	MAINT OF GENL PLANT	168.32
	PLATT ELECTRIC		SOLID WASTE OPERATIONS	168.32
114883	POLLARDWATER.COM	DECHLOR AND SCREENS	WATER DIST MAINS	872.90
114884	POSTAL SERVICE	POSTAGE	UTIL ADMIN	37.66
	POSTAL SERVICE		COMMUNITY DEVELOPMENT-	95.23
114885	PUD	ACCT #2024-6103-4	UTIL ADMIN	15.37
	PUD	ACCT #2054-8182-3	GOLF ADMINISTRATION	15.58
	PUD	ACCT #2020-3113-4	PUMPING PLANT	16.29
	PUD	ACCT #2051-9537-3	PARK & RECREATION FAC	16.70
	PUD	ACCT #2005-0161-7	TRANSPORTATION MANAGEM	27.50
	PUD	ACCT #2024-6102-6	MAINT OF GENL PLANT	27.94
	PUD	ACCT #2009-7395-6	SEWER LIFT STATION	28.04
	PUD	ACCT #2027-9465-7	TRANSPORTATION MANAGEM	44.55
	PUD	ACCT #2004-4880-1	TRANSPORTATION MANAGEM	47.21
	PUD	ACCT #2022-9424-5	SEWER LIFT STATION	52.21
	PUD	ACCT #2034-3089-7	STREET LIGHTING	54.42
	PUD	ACCT #2035-0002-0	STREET LIGHTING	54.69
	PUD	ACCT #2025-2469-0	PUMPING PLANT	54.74
	PUD	ACCT #2023-0330-1	SEWER LIFT STATION	61.68
	PUD	ACCT #2020-1181-3	PUMPING PLANT	70.34
	PUD	ACCT #2022-8858-5	TRANSPORTATION MANAGEM	73.87
	PUD	ACCT #2000-6146-3	PARK & RECREATION FAC	82.77
	PUD	ACCT #2016-7563-4	WASTE WATER TREATMENT F	88.79
	PUD	ACCT #2206-8134-0	STORM DRAINAGE	95.33

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114885	PUD	ACCT #2052-3773-8	TRAFFIC CONTROL DEVICES	133.79
	PUD	ACCT #2052-3927-0	TRAFFIC CONTROL DEVICES	154.62
	PUD	ACCT #2032-9121-6	GENERAL SERVICES - OVERH	156.57
	PUD	ACCT #2002-2385-7	PARK & RECREATION FAC	192.91
	PUD	ACCT #2019-0963-7	SEWER LIFT STATION	193.35
	PUD	ACCT #2016-2888-0	WASTE WATER TREATMENT F	197.95
	PUD	ACCT #2024-2648-2	PUBLIC SAFETY BLDG	204.98
	PUD	ACCT #2012-4769-9	STREET LIGHTING	373.94
	PUD	ACCT #2015-8728-4	WASTE WATER TREATMENT F	867.24
	PUD	ACCT#2021-7733-3	MAINT OF GENL PLANT	940.99
	PUD	ACCT #2000-2187-1	COURT FACILITIES	1,140.88
	PUD	ACCT #2011-4725-3	PUMPING PLANT	1,215.72
	PUD	ACCT #2008-2454-8	MAINT OF GENL PLANT	1,342.20
	PUD	ACCT #2016-1747-9	CITY HALL	1,384.26
	PUD	ACCT #2016-3968-9	MAINT OF GENL PLANT	2,120.34
	PUD	ACCT #2003-0347-7	WATER FILTRATION PLANT	2,272.42
	PUD	ACCT #2015-7792-1	PUMPING PLANT	3,767.07
	PUD	ACCT #2020-7500-8	WASTE WATER TREATMENT F	5,333.11
	PUD	ACCT #2014-2063-5	WASTE WATER TREATMENT F	11,920.50
	PUD	ACCT #2017-2118-0	WASTE WATER TREATMENT F	14,386.13
114886	PUGET SOUND SECURITY	KEYS MADE	EQUIPMENT RENTAL	21.93
114887	PUGET SOUND SECURITY	SECURITY SERVICES	PROBATION	807.68
	PUGET SOUND SECURITY		MUNICIPAL COURTS	2,423.07
114888	RAMIREZ, CANDACE	UTILITY TAX REBATE	NON-DEPARTMENTAL	91.65
114889	RASMUSSEN, DOLORES		NON-DEPARTMENTAL	89.87
114890	RH2 ENGINEERING INC	PROFESSIONAL SERVICES	WATER CAPITAL PROJECTS	13,947.00
114891	RICH, RAVEN	REFUND CLASS FEES	PARKS-RECREATION	40.00
114892	ROPER, PHYLLIS	UTILITY TAX REFUND	NON-DEPARTMENTAL	113.81
114893	ROSE, BILL & JEAN	UTILITY TAX REBATE	NON-DEPARTMENTAL	27.24
114894	ROTH, ALLAN		NON-DEPARTMENTAL	25.36
114895	ROY ROBINSON	HOSE, HARNESS AND GAS CAP	EQUIPMENT RENTAL	215.48
114896	SAFEWAY INC.	CLEANING SUPPLIES	DETENTION & CORRECTION	14.04
114897	SAFEWAY INC.	SPECIAL EVENT SUPPLIES	OPERA HOUSE	31.92
	SAFEWAY INC.		RECREATION SERVICES	174.37
114898	SCHMIDT, WILMA	UTILITY TAX REBATE	UTIL ADMIN	40.00
	SCHMIDT, WILMA		NON-DEPARTMENTAL	76.34
	SCHMIDT, WILMA		UTIL ADMIN	149.10
114899	SCHRADER, SHAWN	REFUND CLASS FEES	PARKS-RECREATION	40.00
114900	SCHROEDER, BARBARA	UTILITY TAX REBATE	NON-DEPARTMENTAL	60.01
114901	SCORE	INMATE MEDICAL SERVICES	DETENTION & CORRECTION	2,131.90
	SCORE	INMATE HOUSING	DETENTION & CORRECTION	16,860.90
114902	SCOTT, DEAN	UTILITY TAX REBATE	NON-DEPARTMENTAL	89.45
114903	SCWBOA	BASKETBALL REFS	RECREATION SERVICES	4,636.00
114904	SEATTLE AUTOMOTIVE D	BATTERY	ER&R	130.90
114905	SEATTLE TIMES, THE	SUBSCRIPTION	EXECUTIVE ADMIN	105.30
114906	SHERWIN WILLIAMS	PAINT AND SUPPLIES	MAINT OF GENL PLANT	81.18
	SHERWIN WILLIAMS		SOLID WASTE OPERATIONS	81.19
	SHERWIN WILLIAMS	PRIMER, RESPIRATORS AND BRUSHE	PUBLIC SAFETY BLDG	111.69
114907	SHRED-IT US	MONTHLY SHREDDING SERVICE	OFFICE OPERATIONS	59.28
	SHRED-IT US	MONTHLY SHREDDING/ONSITE PURGE	CITY CLERK	383.66
114908	SIX ROBBLEES INC	MARKING CRAYONS	EQUIPMENT RENTAL	21.06
114909	SMITH BROTHERS	CARPET CLEANING	OPERA HOUSE	1,425.00
114910	SMITH, BETTY	UTILITY TAX REBATE	UTIL ADMIN	40.00
	SMITH, BETTY		NON-DEPARTMENTAL	43.96
	SMITH, BETTY		UTIL ADMIN	149.10
114911	SNO CO BAR ASSOC	2017 LICENSE RENEWAL-MILLETT	LEGAL - PROSECUTION	125.00
	SNO CO BAR ASSOC	2017 LICENSE RENEWAL-TREACY	LEGAL - PROSECUTION	125.00
114912	SODERBERG, DONALD	UTILITY TAX REBATE	NON-DEPARTMENTAL	17.87
114913	SONITROL	SECURITY MONITORING SERVICE	UTIL ADMIN	139.00
	SONITROL		COMMUNITY CENTER	149.00
	SONITROL		PUBLIC SAFETY BLDG	168.00



**CITY OF MARYSVILLE  
 INVOICE LIST  
 FOR INVOICES FROM 2/16/2017 TO 2/22/2017**

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
114913	SONITROL	SECURITY MONITORING SERVICE	PARK & RECREATION FAC	276.00
	SONITROL		MAINT OF GENL PLANT	303.00
	SONITROL		CITY HALL	348.00
	SONITROL		WASTE WATER TREATMENT F	514.19
114914	SOUND PUBLISHING	OPERA HOUSE ADS	OPERA HOUSE	450.00
114915	SOUND SAFETY	JEANS-LANCE	UTIL ADMIN	54.55
	SOUND SAFETY	BOOTS-PHELPS	PARK & RECREATION FAC	123.56
	SOUND SAFETY	JEANS-BRYANT, K	UTIL ADMIN	141.69
	SOUND SAFETY	GLOVES	ER&R	234.08
	SOUND SAFETY	BOOTS AND JEANS-SCHOOLCRAFT	UTIL ADMIN	366.91
114916	SPRINGBROOK NURSERY	GRAVEL	PARK & RECREATION FAC	51.15
	SPRINGBROOK NURSERY		PARK & RECREATION FAC	51.15
	SPRINGBROOK NURSERY		PARK & RECREATION FAC	51.15
	SPRINGBROOK NURSERY		PARK & RECREATION FAC	51.15
	SPRINGBROOK NURSERY		PARK & RECREATION FAC	51.16
114917	STAPLES	RETURN OFFICE SUPPLIES	MUNICIPAL COURTS	-138.09
	STAPLES	OFFICE SUPPLIES	PERSONNEL ADMINISTRATIOI	105.30
	STAPLES		MUNICIPAL COURTS	138.09
114918	STATE PATROL	FINGERRINT ID SERVICES	GENERAL FUND	252.00
	STATE PATROL	BACKGROUND CHECKS	PERSONNEL ADMINISTRATIOI	396.00
114919	STRATEGIES 360	PROFESSIONAL SERVICES	GENERAL SERVICES - OVERH	4,143.95
	STRATEGIES 360		WASTE WATER TREATMENT F	4,143.96
	STRATEGIES 360		UTIL ADMIN	5,525.27
114920	SUBURBAN PROPANE	PROPANE	PARK & RECREATION FAC	996.53
114921	SUPPLYWORKS	JANITORIAL SUPPLIES	WASTE WATER TREATMENT F	125.47
	SUPPLYWORKS		MAINT OF GENL PLANT	171.59
	SUPPLYWORKS		UTIL ADMIN	180.20
	SUPPLYWORKS		COURT FACILITIES	182.70
	SUPPLYWORKS		MAINT OF GENL PLANT	205.30
	SUPPLYWORKS		CITY HALL	221.96
	SUPPLYWORKS		PUBLIC SAFETY BLDG	254.77
	SUPPLYWORKS		ER&R	481.46
114922	SWAIN, CECELIA	UTILITY TAX REBATE	NON-DEPARTMENTAL	78.86
114923	TALIMAN, MARY JOYCE	RENTAL DEPOSIT REFUND	GENERAL FUND	200.00
114924	TASCHEREAU, MARTHA	UTILITY TAX REBATE	NON-DEPARTMENTAL	33.17
114925	TECHPOWER SOLUTIONS	PRINTER	COMMUNITY SERVICES UNIT	522.59
114926	THYSSENKRUPP ELEVATO	PREVENTATIVE MAINTENANCE	CITY HALL	294.31
	THYSSENKRUPP ELEVATO		PUBLIC SAFETY BLDG	294.31
114927	TIERNEY, HELEN	UTILITY TAX REBATE	NON-DEPARTMENTAL	64.30
114928	TROJAN TECHNOLOGIES	SENSOR	PUMPING PLANT	17.19
	TROJAN TECHNOLOGIES	SENSOR CALIBRATION	PUMPING PLANT	818.25
114929	TULALIP CHAMBER	BBH (14)	UTIL ADMIN	23.00
	TULALIP CHAMBER		FINANCE-GENL	23.00
	TULALIP CHAMBER		COMMUNITY DEVELOPMENT-	23.00
	TULALIP CHAMBER		PARK & RECREATION FAC	23.00
	TULALIP CHAMBER		POLICE ADMINISTRATION	23.00
	TULALIP CHAMBER		LEGAL-GENL	23.00
	TULALIP CHAMBER		EXECUTIVE ADMIN	69.00
	TULALIP CHAMBER		CITY COUNCIL	115.00
114930	TULALIP TRIBAL COURT	BAIL POSTED	GENERAL FUND	1,000.00
114931	UNITED PARCEL SERVIC	SHIPPING EXPENSE	POLICE PATROL	3.44
114932	VALDES, MALINDA	UTILITY TAX REBATE	NON-DEPARTMENTAL	47.61
114933	VERIZON	WIRELESS CHARGES	PURCHASING/CENTRAL STOF	21.50
	VERIZON		CRIME PREVENTION	43.00
	VERIZON		UTILITY BILLING	43.00
	VERIZON		PERSONNEL ADMINISTRATIOI	55.11
	VERIZON		EQUIPMENT RENTAL	64.50
	VERIZON		PROPERTY TASK FORCE	110.22
	VERIZON		FACILITY MAINTENANCE	110.22
	VERIZON		LEGAL-GENL	113.45
	VERIZON		FINANCE-GENL	120.22

**CITY OF MARYSVILLE  
 INVOICE LIST**

FOR INVOICES FROM 2/16/2017 TO 2/22/2017

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
114933	VERIZON	WIRELESS CHARGES	SOLID WASTE CUSTOMER EX	150.50
	VERIZON		RECREATION SERVICES	162.61
	VERIZON		COMPUTER SERVICES	163.54
	VERIZON		LEGAL - PROSECUTION	165.33
	VERIZON		PARK & RECREATION FAC	174.72
	VERIZON		COMMUNITY SERVICES UNIT	195.54
	VERIZON		OFFICE OPERATIONS	196.22
	VERIZON		YOUTH SERVICES	220.44
	VERIZON		EXECUTIVE ADMIN	230.44
	VERIZON		MUNICIPAL COURTS	245.35
	VERIZON		WATER SUPPLY MAINS	344.61
	VERIZON		GENERAL SERVICES - OVERH	368.22
	VERIZON		DETENTION & CORRECTION	404.55
	VERIZON		WASTE WATER TREATMENT F	417.35
	VERIZON		COMMUNITY DEVELOPMENT-	430.15
	VERIZON		ENGR-GENL	438.85
	VERIZON		SOLID WASTE OPERATIONS	544.75
	VERIZON		STORM DRAINAGE	588.08
	VERIZON		IS REPLACEMENT ACCOUNTS	600.04
	VERIZON		COMPUTER SERVICES	616.32
	VERIZON		POLICE INVESTIGATION	657.33
	VERIZON		POLICE ADMINISTRATION	739.23
	VERIZON		UTIL ADMIN	1,821.86
	VERIZON		POLICE PATROL	4,582.32
114934	WALTER E NELSON CO.	JANITORIAL SUPPLIES	PARK & RECREATION FAC	91.64
	WALTER E NELSON CO.		GMA-PARKS	137.47
114935	WASHINGTON LEGAL	MESSENGER SERVICE	GMA - STREET	145.00
114936	WASTE MANAGEMENT	RECYCLE PILOT	RECYCLING OPERATION	2,639.29
114937	WEDGE, LELAND	UTILITY TAX REBATE	NON-DEPARTMENTAL	39.45
	WEDGE, LELAND		UTIL ADMIN	40.00
	WEDGE, LELAND		UTIL ADMIN	189.64
114938	WEED GRAAFSTRA	LEGAL SERVICE	LEGAL-GENL	68.50
	WEED GRAAFSTRA		UTIL ADMIN	68.50
	WEED GRAAFSTRA		GMA - STREET	1,348.69
	WEED GRAAFSTRA		GMA - STREET	1,487.00
114939	WEILER, ARLENE	UTILITY TAX REBATE	NON-DEPARTMENTAL	107.77
114940	WEST PAYMENT CENTER	WEST INFORMATION CHARGES	POLICE INVESTIGATION	246.41
114941	WESTERN NURSERY	PLANTS	ROADSIDE VEGETATION	293.22
114942	WESTERN PETERBILT	RETURN COMPRESSOR ASSEMBLY AND	EQUIPMENT RENTAL	-538.85
	WESTERN PETERBILT	RETURN IDLER PULLEY	EQUIPMENT RENTAL	-360.30
	WESTERN PETERBILT	RETURN RECEIVER-DRYER	EQUIPMENT RENTAL	-329.26
	WESTERN PETERBILT	IDLER PULLEY	EQUIPMENT RENTAL	43.96
	WESTERN PETERBILT	RECEIVER-DRYER	EQUIPMENT RENTAL	329.26
	WESTERN PETERBILT	IDLER PULLEY	EQUIPMENT RENTAL	360.30
	WESTERN PETERBILT	COMPRESSOR ASSEMBLY AND VALVE	EQUIPMENT RENTAL	538.85
	WESTERN PETERBILT	COMPRESSOR, VALVES AND RECEIVE	EQUIPMENT RENTAL	1,233.41
114943	WETZEL, SHIRLEY	UTILITY TAX REBATE	NON-DEPARTMENTAL	82.82
114944	WHISTLE WORKWEAR	JEANS-DAY	SOLID WASTE OPERATIONS	106.11
	WHISTLE WORKWEAR	JEANS-SMITH	GENERAL SERVICES - OVERH	115.94
	WHISTLE WORKWEAR	JEANS-PIKE	GENERAL SERVICES - OVERH	132.65
	WHISTLE WORKWEAR	BOOTS-SMITH	GENERAL SERVICES - OVERH	176.89
	WHISTLE WORKWEAR	BOOTS-PIKE	GENERAL SERVICES - OVERH	200.00
114945	WIDE FORMAT COMPANY	MAINTENANCE AGREEMENT KIP PRIN	UTIL ADMIN	106.92
114946	WOODMANSEE, LAUREN	REIMBURSE SPECIAL EVENT SUPPLY	COMMUNITY EVENTS	21.82
	WOODMANSEE, LAUREN		OPERA HOUSE	113.17
114947	WRAY, FRANCES	UTILITY TAX REBATE	NON-DEPARTMENTAL	16.43
114948	WSCPA	WSCPA DUES-SMITH	POLICE ADMINISTRATION	50.00
114949	WYSER CONSTRUCTION	PAY ESTIMATE #2	WASTE WATER TREATMENT F	25,093.00
	WYSER CONSTRUCTION		GMA-PARKS	87,007.25
114950	YAKIMA COUNTY DOC	INMATE HOUSING	DETENTION & CORRECTION	12,663.80
114951	ZARETZKE, NATE	PER DIEM 2/27/17-3/3/17	POLICE PATROL	352.00

DATE: 2/22/2017  
TIME: 9:34:55AM

**CITY OF MARYSVILLE**  
**INVOICE LIST**  
**FOR INVOICES FROM 2/16/2017 TO 2/22/2017**

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<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
114952	ZERR, DOROTHY	UTILITY TAX REBATE	UTIL ADMIN	40.00
	ZERR, DOROTHY		NON-DEPARTMENTAL	59.65
	ZERR, DOROTHY		UTIL ADMIN	149.10
114953	ZUMAR INDUSTRIES	SIGNS	TRANSPORTATION MANAGEM	1,429.24
114954	ZWIERS, ANNA	UTILITY TAX REBATE	NON-DEPARTMENTAL	70.36

**WARRANT TOTAL: 997,296.45**

CHECK #111529 CHECK LOST/DAMAGED IN MAIL (55.90)

CHECK #113638 CHECK LOST/DAMAGED IN MAIL (30.25)

**REASON FOR VOIDS:**

UNCLAIMED PROPERTY  
INITIATOR ERROR  
WRONG VENDOR  
CHECK LOST/DAMAGED IN MAIL

**997,210.30**

# *Index #3*

**CITY OF MARYSVILLE AGENDA BILL**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: March 6, 2017**

<b>AGENDA ITEM:</b>	
Alliance for Housing Affordability Work Plan and Budget	
<b>PREPARED BY:</b>	<b>DIRECTOR APPROVAL:</b>
Chris Holland, Planning Manager	
<b>DEPARTMENT:</b>	
Community Development	
<b>ATTACHMENTS:</b>	
<ol style="list-style-type: none"> <li>1. Alliance for Housing Affordability Work Plan and Budget Memo, dated 02.22.17</li> <li>2. Fiscal Year 2018 DRAFT Work Plan</li> <li>3. Fiscal Year 2018 Operating Budget and Member Contributions</li> </ol>	
<b>BUDGET CODE:</b>	<b>AMOUNT:</b>
<b>SUMMARY:</b>	

See attached memorandum, dated February 22, 2017

**RECOMMENDED ACTION:**

Approve the Alliance for Housing Affordability Fiscal Year 2018 Budget and Work Plan with a contribution totaling \$6,085.00.



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

## MEMORANDUM

**DATE:** February 22, 2017  
**TO:** Marysville City Council  
**FROM:** Chris Holland, Planning Manager  
**RE:** Alliance for Housing Affordability Work Plan and Budget  
 PA 15011 (B16-0182)

**SUMMARY:** Through the Alliance for Housing Affordability (AHA) Snohomish County cities work together to address affordable housing issues on a regional basis. Each year the AHA board recommends a budget. City Councils then approve that budget.

**BACKGROUND:** The Alliance for Housing Affordability (AHA) was created in 2013 through an Inter Local Agreement (ILA) signed by the City of Marysville, Snohomish County, 10 other cities in the County, and the Housing Authority of Snohomish County. The mission of AHA is to increase the supply of affordable housing in Snohomish County by addressing the issue on a regional basis through interjurisdictional cooperation and collaboration. Still in its early years, AHA is doing this by providing its members technical expertise related to housing, by gathering and analyzing housing data and by providing education and outreach to the public and to elected officials.

The ILA created a Board to manage AHA. The Board consists of representatives from each member of the Alliance. The Board establishes an annual work plan and recommends an annual budget for approval by the governing body of each of its members. In the case of Marysville that would be the City Council. The ILA also provides for a fiscal year that runs July 1–June 30. In order for each member to provide for its AHA contribution in their respective budgets, the Board works on and approves a recommended budget about one year before the budget goes into effect.

AHA has a single staff member, Chris Collier, who is the AHA program manager.

**ANALYSIS:** Since its inception, the expertise provided to city staff by AHA has assisted staff to ensure the City is meeting the Growth Management Act and Countywide Planning Policies requirements related to housing and affordable housing. This was especially evident in the 2015 Comprehensive Plan update, which included an update of the Housing Element.

Recently, an AHA subcommittee has started preliminary discussions to strategize how to establish a funding source to assist with the construction of new affordable housing. This is one of the long-term goals for AHA.

In addition to providing much needed housing expertise to the City, AHA also provides a forum for the City to collaborate with other municipalities in the County to address the regional problem of the lack of affordable housing in Snohomish County.

### **BUDGETARY IMPACTS:**

The AHA FY2018 budget establishes the City of Marysville contribution at **\$6,085.00** a **10% increase** over last year's amount.

**RECOMMENDATION:**

Approve the Alliance for Housing Affordability Fiscal Year 2018 Budget and Work Plan with a contribution totaling \$6,085.00.

**ATTACHMENT(S):**

Alliance for Housing Affordability Fiscal Year 2018 Work Plan  
Alliance for Housing Affordability Fiscal Year 2018 Budget

**REFERENCE(S):** AHA website – [www.housingallies.org](http://www.housingallies.org)

# FY2018 Draft Work Plan (July 2017 – June 2018)

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## I. Synthesize/Analyze Data

- a. Continue to identify data gaps and develop strategies for resolving them, including updating the Affordable Housing Rental Inventory of Snohomish County
- b. Track market and demographic changes over time, including information on new and expiring affordable housing, funding sources, income restrictions, condition, and surrounding public infrastructure
- c. Prepare housing profiles for new members

## 2. Provide Technical Expertise

- a. Respond to research requests from Joint Board members, actively seek out new projects
- b. Support jurisdictions in the development and implementation of new housing strategies and performance evaluation of existing strategies
  - a. Develop model dedicated housing strategy
- c. Develop and expand range of educational materials, including working definitions of housing concepts and programs, best practices, case studies, and visual aids

## 3. Education and Outreach

- a. Develop a strategy and tools to educate elected officials about affordable housing and the roles they can play in educating others about their jurisdictions' affordable housing needs and in obtaining funding for housing
  - Research legislative changes, legislative agendas, and funded projects
  - Design workshop for elected officials to better inform them of housing issues and funding opportunities/challenges/processes
  - Present regularly to participant city councils on affordable housing issues in the context of their city
  - Identify elected officials who could serve as primary contact points for federal/state elected officials and federal/state agencies that provide housing funding
- b. Facilitate collaboration on housing policies and priorities, including connecting Alliance members with relevant state and federal elected officials and agencies
  - Collaborate with Housing Consortium of Everett and Snohomish County on housing advocacy
- c. Assure that the community and stakeholders are aware of the Alliance's mission, resources, and accomplishments

## 4. Grants and Financial

- a. Track upcoming funding opportunities and newly funded projects
- b. Research strategies for leveraging CDBG and other funds
- c. Explore common strategies to pursue funding to be used by cities individually or collectively
- d. Study potential new revenue generation tools that can be used to fund projects
  - a. Identify specific locations for potential affordable housing development, including preservation of existing affordable housing



## ALLIANCE FOR HOUSING AFFORDABILITY

### PROPOSED FY2018 OPERATING BUDGET<sup>1</sup>

	Jurisdictions	HASCO	Total
<b>Revenues</b>			
FY18 Revenue	\$71,752	\$53,505	\$125,257
<b>Total FY18 Revenue</b>	<b>\$71,752</b>	<b>\$53,505</b>	<b>\$125,257</b>
<b>Expenses</b>			
1.0 FTE Program Manager	\$37,301	\$30,834	\$68,135
Fringe Benefits @ 39%	\$26,572		\$26,572
Local Travel / Mileage	\$1,407		\$1,407
Audit	\$1,000		\$1,000
Software, Data, and Consulting	\$5,472		\$5,472
<b>Total FY18 Expenses</b>	<b>\$71,752</b>	<b>\$30,834</b>	<b>\$102,586</b>
HASCO Staff Time (In Kind)		\$12,000	\$12,000
Overhead @ 10% (In Kind)		\$10,671	\$10,671
<b>Total FY18 Expenses and In Kind</b>	<b>\$71,752</b>	<b>\$53,505</b>	<b>\$125,257</b>

### PROPOSED FY2018 MEMBER CONTRIBUTIONS

Joint Board Members	2015 Population	% of Subtotal	FY2018 Contribution	% Increase from FY2017
<b>SMALL JURISDICTIONS</b>				
Granite Falls	3,390	-	\$1,639	3%
Snohomish	9,270	-	\$1,639	3%
Stanwood	6,530	-	\$1,639	3%
Woodway	1,310	-	\$1,639	3%
<b>Small Jurisdictions Subtotal</b>	<b>20,500</b>	<b>-</b>	<b>\$6,556</b>	
<b>LARGE JURISDICTIONS</b>				
Arlington	18,490	2.69%	\$1,754	8%
County (Unincorporated)	330,260	48.06%	\$31,330	11%
Edmonds	40,490	5.89%	\$3,841	9%
Everett	105,800	15.39%	\$10,037	9%
Lake Stevens	29,900	4.35%	\$2,836	10%
Lynnwood	36,420	5.30%	\$3,455	9%
Marysville	64,140	9.33%	\$6,085	10%
Mill Creek	19,760	2.88%	\$1,875	13%
Mountlake Terrace	21,090	3.07%	\$2,001	11%
Mukilteo	20,900	3.04%	\$1,983	10%
<b>Large Jurisdictions Subtotal</b>	<b>687,250</b>	<b>100.00%</b>	<b>\$65,196</b>	
<b>HOUSING AUTHORITY</b>				
HASCO			<b>\$53,505</b>	

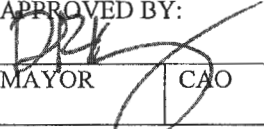
1. FY2018 is July 1, 2017 to June 30, 2018. The AHA Joint Board accepted this budget in May 2016 for councils' review and appropriation by 2/28/2017. The AHA Joint Board must adopt this final budget by 3/31/2017.

# *Index #4*

**CITY OF MARYSVILLE**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE:** March 6, 2017

AGENDA ITEM: PA 16-037 '2017-2022 Capital Facilities Plan Update'	AGENDA SECTION:
PREPARED BY: Cheryl Dungan, Senior Planner	AGENDA NUMBER:
ATTACHMENTS: 1. PC Recommendation to Council 2. Marysville <i>DRAFT</i> Capital Facilities Plan 2017-2022	APPROVED BY: 
	MAYOR   CAO
BUDGET CODE:	AMOUNT:

The Marysville Planning Commission (PC) completed their review and recommendation for the Marysville Capital Facilities Plan 2017-2022 (CFP). The CFP is the document that communicates the City's plan for capital construction and purchases for a six-year period as required by the Growth Management Act (GMA). While the CFP does not cover routine maintenance, it does include construction, engineering, administration, permitting, taxes and interest. Capital improvements that are included in the CFP are generally defined as any structure, improvement, piece of equipment or other major asset, including land that has useful life of at least ten years.

The PC held a public workshop on January 10, 2017 and held a Public Hearing on January 24, 2017 to accept public comment and to review the CFP following public notice. The PC recommendation is reflected in the attached January 24, 2017 PC Recommendation to Council.

The GMA allows jurisdictions to amend the Comprehensive Plan *not more than once* per calendar year. The statutory exceptions, contained in GMA, to the once per year adoption of amendments to the Comprehensive Plan are either:

1. It needs to be part of the budget process; or
2. It needs to be an emergency.

The proposed CFP update is included in the once per year amendments to 2016 Comprehensive Plan currently before the City Council.

RECOMMENDED ACTION: The 2017-2022 Capital Facilities Plan is scheduled for City Council action on March 27, 2017.
COUNCIL ACTION:



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

## PC Recommendation – Capital Facilities Plan & Ordinance Update

The Planning Commission (PC) of the City of Marysville, having held a public hearing on January 24, 2016 in review of a NON-PROJECT action amendment of the Marysville Capital Facilities Plan, proposing adoption of an updated Capital Facilities Plan (CFP) and Ordinance, and having considered the exhibits and testimony presented, PC does hereby enter the following findings, conclusions and recommendation for consideration by the Marysville City Council:

### FINDINGS:

1. The PC held a public work session to both introduce and review the NON-PROJECT action amendments proposing adoption of the NON-PROJECT action update to the Capital Facilities Plan (CFP) and Ordinance as described above, on January 10, 2017
2. A Determination of Non-significance for proposed Capital Facilities Plan update was issued on December 5, 2016. There were no appeals.
3. Community Development Staff submitted the NON-PROJECT action Capital Facilities Plan update to the Washington State Department of Commerce for 60-day review of comprehensive plan 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 January 24, 2017 and received testimony from city staff regarding the proposed revisions. No one from the public spoke regarding the proposed revisions.

### CONCLUSION:

At the public hearing, held on January 24, 2017, the PC recommended **APPROVING** the update to the Capital Facilities Plan (CFP) and Ordinance.

### RECOMMENDATION:

Forwarded to City Council as a Recommendation of **APPROVAL** of the NON-PROJECT action known as the Capital Facilities Plan (CFP) and Ordinance update, this **January 24, 2017**.

By: \_\_\_\_\_

Stephen Leifer, Planning Commission Chair



City of Marysville  
**2017 Capital Facilities Plan**

02/24/2017

Washington's Growth Management Act of 1990 (GMA) established a framework of guidelines that municipalities must adhere to as they plan for future growth. In accordance with the GMA, the City of Marysville maintains several planning documents that outline the improvements necessary to support anticipated growth. These planning elements compose the City's Comprehensive Plan, which offers a broad, long-term vision for the City's future. Supporting documents include the six-year Transportation, Water, Sewer and Surface Water Improvement Plans, and this document—the Capital Facilities Plan.

As a whole, the planning documents define and provide the basis for necessary infrastructure improvements within the City. In addition, they outline the maintenance and rehabilitation programs necessary to sustain these systems.

The Capital Facilities Plan places specific focus on the projects that will be under way in 2017. It offers insight on the nature of and impetus for each of the projects, anticipated schedules for completion and project-specific budgets. A well-developed Capital Facilities Plan is essential in the budgeting process. As such, this document is a tool for City staff as we move forward with project planning, development, and administration, on both a global and project-specific basis. The City looks forward with optimism to delivery of our planned program.

CFP - Project Descriptions

**Facilities**

**Project Name:** Public Safety Building

**Manager:**

**Project Number:** 1437

**Budget Code:** 00105830.548000

**Total Estimated Cost:** \$30,250,000

**Begin Year:** 2017

**Target Completion Year:** 2019

**Right of Way:**

**Changes from previous:**

**Description:** This project is being undertaken to alleviate the potential for overcrowding of the current jail facility, to accommodate for future growth in the Police Department and to provide for an expected increase in the number of jail beds required to maintain an acceptable level of service.

The current phase of this project, which is presently underway, has consisted of a review of the existing facility, stakeholders meetings, planning, programming and conceptual design services to determine the City's overall needs and to propose a viable design alternatives to City Council.

Future phases of this project may include Permitting, Construction Plan approval, and ultimately, construction of the approved alternative.

**Location:** 1635 Grove Street

**Environment:** None at this time.

**Challenges:** Existing site constraints, complex operations associated with the affected work groups, construction phasing and the overall project cost.

**Justification:** This project will improve upon or replace the existing jail facility, which is 25 years old, and has reached the end of it's useful life. The jail is currently not large enough to allow for an appropriate level of daily bookings. This is due to a population growth of approximately 50,000 residents since it's construction in 1989. The police department has grown significantly in in this time as well and simply cannot house the number of staff and functions it is currently being used for.

<b>Funds:</b>	Prior	2017	2018	2019	2020	2021	2022	Beyond	Totals
001 - General	\$50,000	\$200,000	\$0	\$0	\$0	\$0	\$0	\$0	\$250,000
901 - General Long Term Debt	\$0	\$0	\$5,000,000	\$15,000,000	\$15,000,000	\$0	\$0	\$0	\$35,000,000
<b>Total:</b>	<b>\$50,000</b>	<b>\$200,000</b>	<b>\$5,000,000</b>	<b>\$15,000,000</b>	<b>\$15,000,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$35,250,000</b>

**Funding Unspecified**

<b>Costs:</b>	Prior	2017	2018	2019	2020	2021	2022	Beyond	Totals
Design/Study	\$50,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$50,000
Permit Fees	\$0	\$200,000	\$0	\$0	\$0	\$0	\$0	\$0	\$200,000
Preliminary Engineering	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Preliminary Engineering	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Construction	\$0	\$0	\$15,000,000	\$15,000,000	\$0	\$0	\$0	\$0	\$30,000,000
	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total:</b>	<b>\$50,000</b>	<b>\$200,000</b>	<b>\$15,000,000</b>	<b>\$15,000,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$30,250,000</b>

**Policy Decisions:**

Decreases demand on Operations & Maintenance resources.

Funding expected the year after the project approved in the CFP.

Increases infrastructure capacity to alleviate existing service deficiencies.

Maintains or Improves Level of Service standards.

Score: 4

CFP - Project Descriptions



Existing Public Safety Building

**Facilities**

**Project Name:** WWTP Office Building Retrofit

**Manager:** None

**Project Number:** S1404

**Budget Code:** 40230594.563000

**Total Estimated Cost:** \$7,753,712

**Begin Year:** 2017

**Target Completion Year:** 2025

**Right of Way:**

**Changes from previous:**

**Description:** This project is being undertaken to alleviate overcrowding at the Public Works facility, to accommodate for future growth of Public Works and to move Sanitation operations from the Mill Site in preparation for future development of that site.

The current phase of this project, which is presently underway, has consisted of a review of the existing facilities and infrastructure, stakeholders meetings, planning, programming and conceptual design services to determine the City's overall needs and to propose a viable design alternative.

Future phases of this project will include Permitting, Construction Plan approval, and ultimately, construction of the approved alternative.

**Location:** 80 Columbia Avenue

**Environment:** Possible wetland buffer fill

**Challenges:**

**Justification:** The existing Public Works facilities are currently experience operational complications due to overcrowding. This new facility will allow for the re-allocation of selected divisions, which will in turn allow the existing facilities to better serve the remaining divisions. This reallocation of staff will also provide room for future expansion in the existing facilities. Furthermore, this facility will provide a new home for the Sanitation division, which is currently housed on the neighboring Mill property. Moving Sanitation will allow the City to sell or redevelop the Mill property.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
402 - Utility Construction	\$53,712	\$0	\$0	\$0	\$0	\$0	\$0	\$7,700,000	\$7,753,712
<b>Total:</b>	<b>\$53,712</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$7,700,000</b>	<b>\$7,753,712</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Design/Study	\$0	\$53,712	\$0	\$0	\$0	\$0	\$0	\$0	\$53,712
Plans & Specifications	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$700,000	\$700,000
Construction	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$7,000,000	\$7,000,000
<b>Total:</b>	<b>\$0</b>	<b>\$53,712</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$7,700,000</b>	<b>\$7,753,712</b>

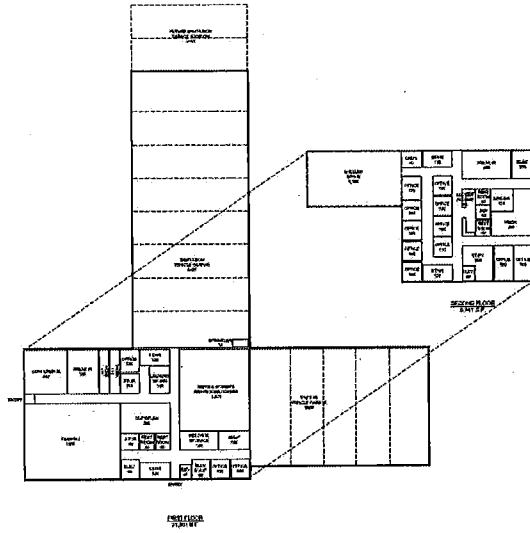
**Policy Decisions:**

Maintains or Improves Level of Service standards.

**Score:** 1



CFP - Project Descriptions



One of many preliminary alternative designs

CFP - Project Descriptions

**Parks**

**Project Name:** Northpointe East Park Improvements

**Manager:** Jim Ballew

**Project Number:**

**Budget Code:**

**Total Estimated Cost:** \$8,000

**Begin Year:** 2017

**Target Completion Year:** 2018

**Right of Way:**

**Changes from previous:**

**Description:** Provide improvements that include new trail paving to connect to Bayview Trail corridor. Purchase new play equipment for older age groups 5-12 and install swing set.

**Location:**

**Environment:** N/A

**Challenges:**

**Justification:** With the addition of the Bayview Trail the current equipment was designed for 1-5 age groups and older age groups are damaging the equipment as it is undersized. Additionally the site visitation has increased due to the trail and new residential growth requiring additional facilities and access.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
310 - GMA Parks	\$0	\$0	\$0	\$8,000	\$0	\$0	\$0	\$0	\$8,000
<b>Total:</b>	\$0	\$0	\$0	\$8,000	\$0	\$0	\$0	\$0	\$8,000
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$0	\$0	\$0	\$8,000	\$0	\$0	\$0	\$0	\$8,000
<b>Total:</b>	\$0	\$0	\$0	\$8,000	\$0	\$0	\$0	\$0	\$8,000

**Policy Decisions:**

- Maintains or Improves Level of Service standards.
- Decreases demand on Operations & Maintenance resources.
- Increases infrastructure capacity to alleviate existing service deficiencies.
- Preserves or extends the life of an existing asset.
- Total capital cost of the project within the normal range for CFP projects (additional staff not needed).

**Score:** 5



## CFP - Project Descriptions

## Parks

**Project Name:** Ebey Waterfront Park & Trail Improvements

**Manager:** Jim Ballew

**Project Number:**

**Budget Code:**

**Total Estimated Cost:** \$13,000,000

**Begin Year:** 2017

**Target Completion Year:** 2019

**Right of Way:**

**Changes from previous:**

**Description:** Utilizing the recently acquired Geddes Marina removal of existing structures and cleanup of the site, evaluation of filling the current tidally influenced pond into a water oriented recreational site or filling of the pond and removing historic tide gates which are in disrepair and failing. Through the development of a Master Plan the project will address approximately 3 acres of new parkland opportunities that can be created with turfing areas, amphitheater, trails, landscape improvements, public amenities and site furnishings.

**Location:** First Street

**Environment:** Shoreline access and cleanup

**Challenges:** Funding and Developer collaborations

**Justification:** Improve the Ebey Slough Shoreline to include public access to the city's shoreline for recreational purposes. Increase access for non motorized boating, fishing, special events, wildlife viewing, education and interpretive opportunities to tie into the Qwuloolt trail corridor. Converts private use into public uses. Provides open space and public gathering space for a variety of special events, possible leaseholds improvements dedicated to recreation and quality of life programming including kayak rentals, restaurants, shopping and festival venues.

<b>Funds:</b>	Prior	2017	2018	2019	2020	2021	2022	Beyond	Totals
Grant Award	\$0	\$0	\$2,000,000	\$200,000	\$0	\$0	\$0	\$0	\$2,200,000
001 - General	\$0	\$200,000	\$0	\$0	\$0	\$0	\$0	\$0	\$200,000
	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
901 - General Long Term Debt	\$0	\$0	\$0	\$4,000,000	\$5,000,000	\$0	\$0	\$0	\$9,000,000
Funding Needed	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
402 - Utility Construction	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total:</b>	<b>\$0</b>	<b>\$200,000</b>	<b>\$2,000,000</b>	<b>\$4,200,000</b>	<b>\$5,000,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$11,400,000</b>

### Permitting \$2,000,000 Construction

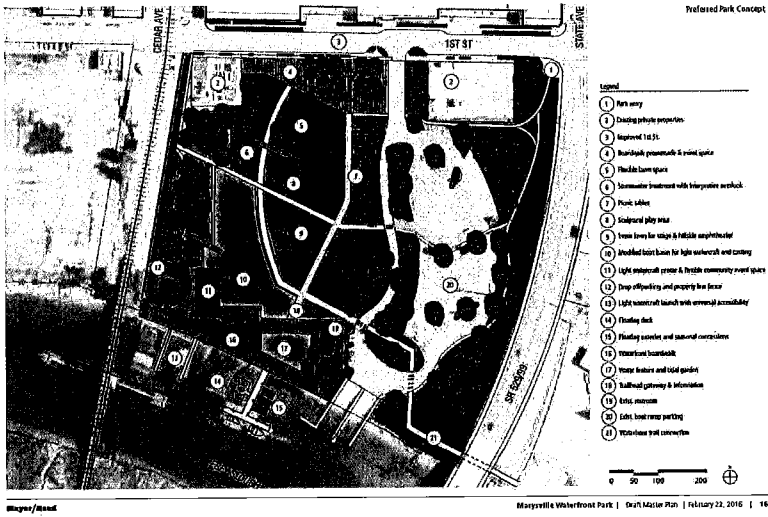
<b>Costs:</b>	Prior	2017	2018	2019	2020	2021	2022	Beyond	Totals
Construction	\$0	\$2,000,000	\$2,000,000	\$6,000,000	\$5,000,000	\$0	\$0	\$0	\$15,000,000
Acquisition	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total:</b>	<b>\$0</b>	<b>\$2,000,000</b>	<b>\$2,000,000</b>	<b>\$6,000,000</b>	<b>\$5,000,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$15,000,000</b>

### Policy Decisions:

- Maintains or Improves Level of Service standards.
- Funding expected 4 - 6 years after the project approved in the CFP.
- Uses sustainable practices in construction.
- Meets all environmental compliance requirements.
- Eliminates a risk or hazard to public health or safety.
- Preserves or extends the life of an existing asset.
- Increases infrastructure capacity to meet future growth needs.
- Attracts new businesses or helps retain existing businesses.

**Score:** 8

CFP - Project Descriptions



**Parks**

**Project Name:** Strawberry Fields Athletic Park

**Manager:** Jim Ballew

**Project Number:**

**Budget Code:**

**Total Estimated Cost:** \$2,310,000

**Begin Year:** 2017

**Target Completion Year:** 2020

**Right of Way:**

**Changes from previous:**

**Description:** Replace grass fields with synthetic Field Turf product on three full size soccer fields. Drainage has been installed to accommodate the project which includes removal of existing organics, importation of sand, installation of turf carpet and edging. Costs associated are estimated at \$770,000 per field for a total project of \$2,310,000

**Location:** 152nd Street NE

**Environment:** Enhances drainage, eliminates use of gasoline mowers, fertility practices and is permissible.

**Challenges:** Cost

**Justification:** installation of field turf fields will provide a significant improvement to the community in providing all weather fields year round, Maintenance costs will be reduced 70% and the cost per use will drop 60%. The community will offset replacement costs due to rentals as the field is currently lighted. Additional revenue will be generated due to additional league play and tournament opportunities.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Grant Award	\$0	\$0	\$0	\$0	\$0	\$750,000	\$0	\$0	\$750,000
105 - Hotel Tax Fund	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
901 - General Long Term Debt	\$0	\$0	\$0	\$0	\$0	\$1,560,000	\$0	\$0	\$1,560,000
<b>Total:</b>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$2,310,000</i>	<i>\$0</i>	<i>\$0</i>	<i>\$2,310,000</i>

Hotel Motel Funds would be acquired through Snohomish County Tourism Promotion Area (TPA) Hotel Grant program.

<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$0	\$0	\$0	\$0	\$0	\$2,310,000	\$0	\$0	\$2,310,000
<b>Total:</b>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$2,310,000</i>	<i>\$0</i>	<i>\$0</i>	<i>\$2,310,000</i>

**Policy Decisions:**

- Maintains or Improves Level of Service standards.
- Decreases demand on Operations & Maintenance resources.
- Funded by a grant with identified local match.
- Uses sustainable practices in construction.
- Meets all environmental compliance requirements.
- Eliminates a risk or hazard to public health or safety.
- Preserves or extends the life of an existing asset.
- Increases infrastructure capacity to meet future growth needs.
- Uses innovative solutions, approaches, or use technology in creative ways.

**Score:** 9

CFP - Project Descriptions



CFP - Project Descriptions

**Parks**

**Project Name:** Northpointe Park

**Manager:** Jim Ballew

**Project Number:**

**Budget Code:**

**Total Estimated Cost:** \$65,000

**Begin Year:** 2017

**Target Completion Year:** 2020

**Right of Way:**

**Changes from previous:**

**Description:** Northpointe Park is a 20 acre park located adjacent to the 73rd Street Reservoir. Improvements have been made recently including new play equipment features and fitness equipment. The park has a significant trail system that should be paved to enhance uses and reduce ongoing maintenance.

**Location:** 71st Ave NE

**Environment:** Associated drainage

**Challenges:**

**Justification:** The extensive trail system would be enhanced by paving the entire system surface of approximately 1.3 miles. The trail connect three subdivisions to the park and would be welcomed by the community as an outdoor recreational improvement. Use of existing infrastructure will reduce costs as the rock bed is in sound condition to pave over.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
001 - General	\$0	\$0	\$0	\$0	\$65,000	\$0	\$0	\$0	\$65,000
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$65,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$65,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$0	\$0	\$0	\$0	\$65,000	\$0	\$0	\$0	\$65,000
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$65,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$65,000</b>

**Policy Decisions:**

Decreases demand on Operations & Maintenance resources.

Uses sustainable practices in construction.

Eliminates a risk or hazard to public health or safety.

Total capital cost of the project within the normal range for CFP projects (additional staff not needed).

Increases infrastructure capacity to meet future growth needs.

Score: 5



## CFP - Project Descriptions

## Parks

**Project Name:** Jennings Memorial Park Improvements

**Manager:** Jim Ballew

**Project Number:**

**Budget Code:**

**Total Estimated Cost:** \$101,000

**Begin Year:** 2017

**Target Completion Year:** 2019

**Right of Way:**

**Changes from previous:**

**Description:** Park improvements are needed to support the city's most active and utilized park. Project elements include the following:

New Public Restroom- East Ball field- \$52,000  
 East parking lot paving-\$14,000  
 Main trail paving- \$12,000  
 Jennings Barn Renovation- Restrooms \$23,000

**Location:** 6915 Armar Road

**Environment:** Paving improvements will greatly assist in managing drainage throughout the topography of the park. Improvements will assist in reduction in property damage during high rain events and flooding.

**Challenges:**

**Justification:** Improvements are needed to sustain increased uses of the city's largest outdoor and indoor facilities provided to the general public. Additional restroom facilities are highlighted within Parks and recreation community surveys. Portable facilities are leased annually and have been subject to vandalism and high replacement costs. Paving projects will eliminate annual maintenance challenges and provide a safe and passable surface for the majority of park visitors

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
001 - General	\$0	\$0	\$22,000	\$0	\$0	\$0	\$0	\$0	\$22,000
109 - CDBG Program	\$0	\$23,000	\$52,000	\$0	\$0	\$0	\$0	\$0	\$75,000
310 - GMA Parks	\$0	\$0	\$24,000	\$0	\$0	\$0	\$0	\$0	\$24,000
<b>Total:</b>	<b>\$0</b>	<b>\$23,000</b>	<b>\$98,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$121,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$0	\$23,000	\$98,000	\$0	\$0	\$0	\$0	\$0	\$121,000
<b>Total:</b>	<b>\$0</b>	<b>\$23,000</b>	<b>\$98,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$121,000</b>

**Policy Decisions:**

Funded by a grant with identified local match.

Maintains or Improves Level of Service standards.

Decreases demand on Operations & Maintenance resources.

Uses sustainable practices in construction.

Increases infrastructure capacity to alleviate existing service deficiencies.

Eliminates a risk or hazard to public health or safety.

Preserves or extends the life of an existing asset.

**Score:** 7



CFP - Project Descriptions



CFP - Project Descriptions

**Parks**

**Project Name:** Comeford Park Improvements

**Manager:** Jim Ballew

**Project Number:**

**Budget Code:**

**Total Estimated Cost:** \$66,500

**Begin Year:** 2017

**Target Completion Year:** 2017

**Right of Way:**

**Changes from previous:**

**Description:** Complete Phase II and III of improvements to Comeford Park with new BBQ plaza and Playground equipment.  
 Replace current NW corner of play equipment with BBQ plaza including covered area, site furnishings and recycling center.  
 Phase III includes replacement of play system and surfacing to compliment increased activity adjacent to Spray Park

**Location:** 5th and Delta

**Environment:** NA

**Challenges:**

**Justification:** Increase opportunities for outdoor public uses for passive and active recreation. Project provides public gathering space and will assist in revenue generation as facility rentals will support ongoing maintenance costs.  
 Increases public facility inventory.

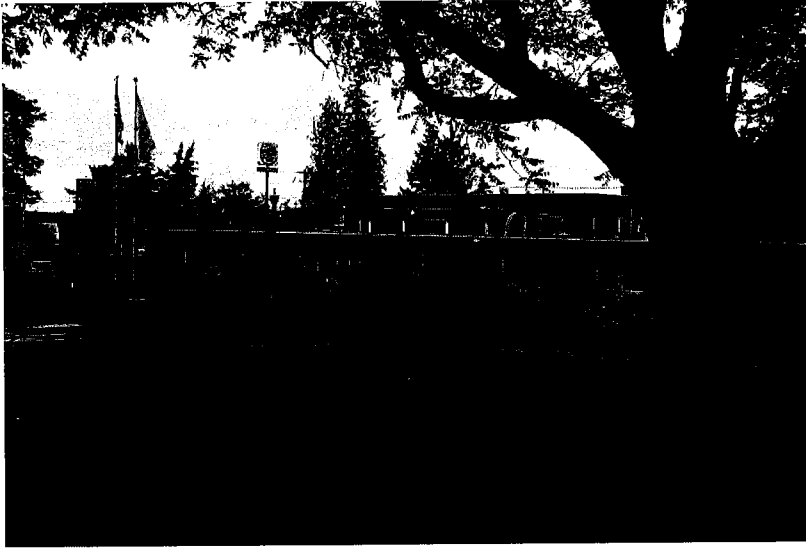
<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
001 - General	\$0	\$0	\$0	\$30,000	\$0	\$0	\$0	\$0	\$30,000
109 - CDBG Program	\$0	\$38,500	\$0	\$30,000	\$0	\$0	\$0	\$0	\$68,500
<b>Total:</b>	<b>\$0</b>	<b>\$38,500</b>	<b>\$0</b>	<b>\$60,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$98,500</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$0	\$38,500	\$0	\$60,000	\$0	\$0	\$0	\$0	\$98,500
<b>Total:</b>	<b>\$0</b>	<b>\$38,500</b>	<b>\$0</b>	<b>\$60,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$98,500</b>

**Policy Decisions:**

- Maintains or Improves Level of Service standards.
- Decreases demand on Operations & Maintenance resources.
- Funded by a grant with identified local match.
- Uses sustainable practices in construction.
- Increases infrastructure capacity to alleviate existing service deficiencies.
- Preserves or extends the life of an existing asset.

**Score:** 6

CFP - Project Descriptions



CFP - Project Descriptions

**Parks**

**Project Name:** Cedarcrest Golf Course

**Manager:** Jim Ballew

**Project Number:**

**Budget Code:**

**Total Estimated Cost:** \$170,000

**Begin Year:** 2017

**Target Completion Year:** 2019

**Right of Way:**

**Changes from previous:**

**Description:** Irrigation System Replacement and Drainage Improvements. Replacement of golf course controllers that manage all irrigation activities. Drainage system renovation and installation of new drain lines to manage surface and ground water influences from adjacent developments.

**Location:** 84th Street NE

**Environment:**

**Challenges:** Funding

**Justification:** Golf Course infrastructure is essential to the success of the course. The irrigations system is an essential component of the course and reached over 75% of the 99 acre facility. The golf course provides a scenic recreational opportunity that is supported by the general fund and course revenues collected from users.

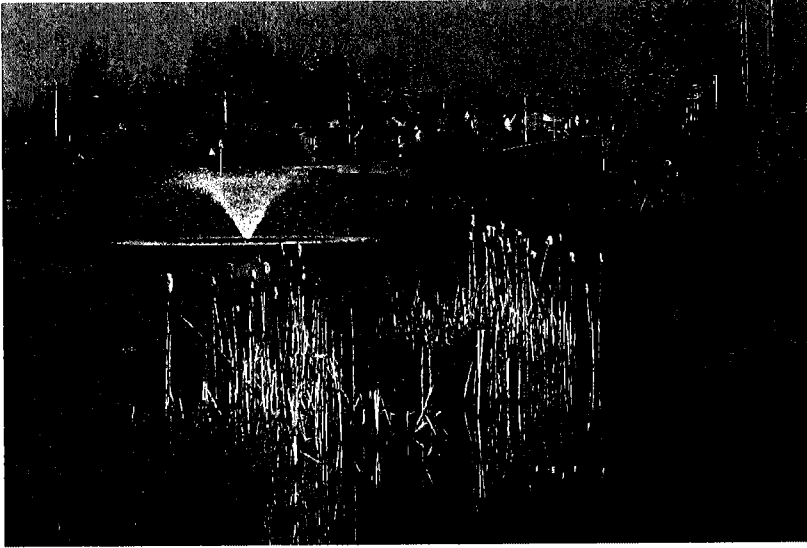
<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
420 - Golf Course Operating	\$0	\$0	\$170,000	\$0	\$0	\$0	\$0	\$0	\$170,000
<b>Total:</b>	\$0	\$0	\$170,000	\$0	\$0	\$0	\$0	\$0	\$170,000
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$0	\$0	\$170,000	\$0	\$0	\$0	\$0	\$0	\$170,000
<b>Total:</b>	\$0	\$0	\$170,000	\$0	\$0	\$0	\$0	\$0	\$170,000

**Policy Decisions:**

- Eliminates a risk or hazard to public health or safety.
- Attracts new businesses or helps retain existing businesses.
- Uses innovative solutions, approaches, or use technology in creative ways.
- Maintains or Improves Level of Service standards.
- Decreases demand on Operations & Maintenance resources.
- Funded with increased rates or no identified source.
- Uses sustainable practices in construction.
- Increases infrastructure capacity to meet future growth needs.
- Preserves or extends the life of an existing asset.

**Score:** 9

CFP - Project Descriptions



**Parks**

**Project Name:** Cedarcrest Vista Park

**Manager:** Jim Ballew

**Project Number:**

**Budget Code:**

**Total Estimated Cost:** \$16,000

**Begin Year:** 2017

**Target Completion Year:** 2017

**Right of Way:**

**Changes from previous:**

**Description:** Remove existing wooden play structure and replace with metal system. Provide new signage and landscape improvements to park including removal of trees on north fence line for visual acuity.

**Location:** 82nd Street NE

**Environment:** NA

**Challenges:** Funding

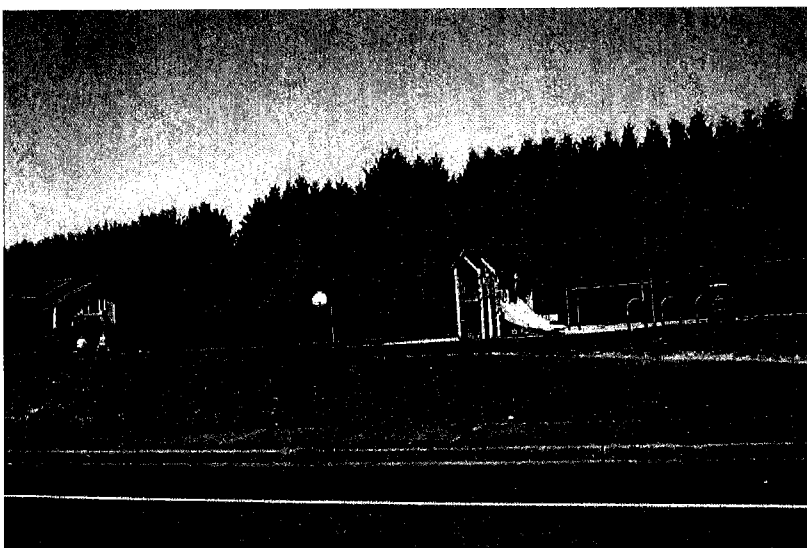
**Justification:** Current system is in failure due to aging wood construction. New improvements will enhance the use of the park in a well established neighborhood adjacent to the Cedarcrest Middle School. New signage will assist in defining appropriate uses and characteristics of the park for public uses.

<b>Funds:</b>	Prior	2017	2018	2019	2020	2021	2022	Beyond	Totals
001 - General	\$0	\$16,000	\$0	\$0	\$0	\$0	\$0	\$0	\$16,000
<b>Total:</b>	<b>\$0</b>	<b>\$16,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$16,000</b>
<b>Costs:</b>	Prior	2017	2018	2019	2020	2021	2022	Beyond	Totals
Construction	\$0	\$16,000	\$0	\$0	\$0	\$0	\$0	\$0	\$16,000
<b>Total:</b>	<b>\$0</b>	<b>\$16,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$16,000</b>

**Policy Decisions:**

- Decreases demand on Operations & Maintenance resources.
- Uses sustainable practices in construction.
- Increases infrastructure capacity to alleviate existing service deficiencies.
- Eliminates a risk or hazard to public health or safety.
- Preserves or extends the life of an existing asset.

Score: 5



**Parks**

**Project Name:** Deering Wildflower Acres Park Upgrades

**Manager:** Jim Ballew

**Project Number:**

**Budget Code:**

**Total Estimated Cost:** \$25,000

**Begin Year:** 2017

**Target Completion Year:** 2019

**Right of Way:**

**Changes from previous:**

**Description:** Deering Wildflower Acres Park is in need of facility upgrades to the Caretaker residence, carport and on-site laboratory, access gate and parking areas. Project also includes additional fencing to support management of unauthorized access to the park when closed.

**Location:** 79th Ave NE Sunnyside area

**Environment:** None

**Challenges:**

**Justification:** Meets ongoing obligations of maintaining parks and facilities for public uses. Reduces risk to community. Enhances user experiences for current recreation programs and opportunities.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
001 - General	\$0	\$0	\$0	\$20,000	\$5,000	\$0	\$0	\$0	\$25,000
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$20,000</b>	<b>\$5,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$25,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$0	\$0	\$0	\$20,000	\$5,000	\$0	\$0	\$0	\$25,000
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$20,000</b>	<b>\$5,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$25,000</b>

**Policy Decisions:**

- Decreases demand on Operations & Maintenance resources.
- Increases infrastructure capacity to alleviate existing service deficiencies.
- Eliminates a risk or hazard to public health or safety.
- Preserves or extends the life of an existing asset.

**Score:** 4



CFP - Project Descriptions

**Parks**

**Project Name:** Hickok Park Improvements

**Manager:** Jim Ballew

**Project Number:**

**Budget Code:**

**Total Estimated Cost:** \$12,000

**Begin Year:** 2017

**Target Completion Year:** 2019

**Right of Way:**

**Changes from previous:**

**Description:** Renovation of park access points including complete renovation of landscaping, fencing, retaining wall and extruded curbing of recently installed play system

**Location:**

**Environment:**

**Challenges:**

**Justification:** This is the city's oldest neighborhood park and needs to be renovated with updated materials. Once complete the park will be more accessible due to the removal of stairs which are the only interior access point. The site furnishings can no longer be maintained after next season.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
001 - General	\$0	\$4,000	\$4,000	\$4,000	\$0	\$0	\$0	\$0	\$12,000
<b>Total:</b>	\$0	\$4,000	\$4,000	\$4,000	\$0	\$0	\$0	\$0	\$12,000
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$0	\$4,000	\$4,000	\$4,000	\$0	\$0	\$0	\$0	\$12,000
<b>Total:</b>	\$0	\$4,000	\$4,000	\$4,000	\$0	\$0	\$0	\$0	\$12,000

**Policy Decisions:**

- Maintains or Improves Level of Service standards.
- Decreases demand on Operations & Maintenance resources.
- Increases infrastructure capacity to alleviate existing service deficiencies.
- Uses sustainable practices in construction.
- Eliminates a risk or hazard to public health or safety.

**Score:** 5





CFP - Project Descriptions

**Parks**

**Project Name:** Jennings Nature Park **Manager:** Jim Ballew

**Project Number:** **Budget Code:** **Total Estimated Cost:** \$29,000

**Begin Year:** 2017 **Target Completion Year:** 2018 **Right of Way:** **Changes from previous:**

**Description:** Park improvements include new restroom roof, fencing replacement, refurbishing of aluminum play structure with powder coating and new equipment. Replacement of all site furnishings to above ground fixtures and concrete pad surroundings and trail paving repairs.

**Location:** SR 528 and 53rd. Street NE

**Environment:** Project will improve environmental conditions.

**Challenges:** Funding

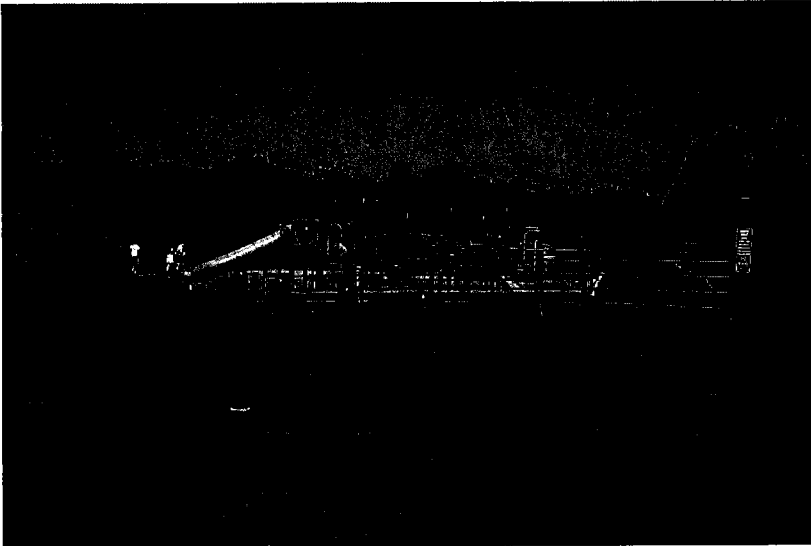
**Justification:** Ongoing improvements to one of city's largest park facilities are required to maintain the integrity of the facilities utilized by the public. Improvements will enhance the outdoor recreation experience. With new signalization at the park entrance staff expects higher utilization of park and increased demands of additional facilities and maintenance.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
109 - CDBG Program	\$4,000	\$10,000	\$15,000	\$0	\$0	\$0	\$0	\$0	\$29,000
<b>Total:</b>	<i>\$4,000</i>	<i>\$10,000</i>	<i>\$15,000</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$29,000</i>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$4,000	\$10,000	\$15,000	\$0	\$0	\$0	\$0	\$0	\$29,000
<b>Total:</b>	<i>\$4,000</i>	<i>\$10,000</i>	<i>\$15,000</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$29,000</i>

**Policy Decisions:**

- Maintains or Improves Level of Service standards.
- Decreases demand on Operations & Maintenance resources.
- Uses sustainable practices in construction.
- Eliminates a risk or hazard to public health or safety.
- Preserves or extends the life of an existing asset.

**Score:** 5



CFP - Project Descriptions

**Parks**

**Project Name:** Parkside Way Park

**Manager:** Jim Ballew

**Project Number:**

**Budget Code:**

**Total Estimated Cost:** \$10,000

**Begin Year:** 2017

**Target Completion Year:** 2018

**Right of Way:**

**Changes from previous:**

**Description:** Provide improvements to established neighborhood park including fencing, addition of swing set and basketball standard to existing court. Provide additional play equipment for younger age group 0-5 years. Add entryway lighting of park and new landscape features.

**Location:** 7720 64 Th ST NE

**Environment:** N/A

**Challenges:** Funding

**Justification:** Supports ongoing maintenance of neighborhood park facility that has fallen in disrepair due to aged equipment. Improvements will enhance outdoor recreation opportunities and quality of life.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
001 - General	\$0	\$0	\$10,000	\$0	\$0	\$0	\$0	\$0	\$10,000
<b>Total:</b>	\$0	\$0	\$10,000	\$0	\$0	\$0	\$0	\$0	\$10,000
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
	\$0	\$0	\$10,000	\$0	\$0	\$0	\$0	\$0	\$10,000
<b>Total:</b>	\$0	\$0	\$10,000	\$0	\$0	\$0	\$0	\$0	\$10,000

**Policy Decisions:**

Decreases demand on Operations & Maintenance resources.

Maintains or Improves Level of Service standards.

Uses sustainable practices in construction.

Preserves or extends the life of an existing asset.

**Score:** 4



CFP - Project Descriptions

**Parks**

**Project Name:** Verda Ridge Neighborhood Park

**Manager:** Jim Ballew

**Project Number:**

**Budget Code:**

**Total Estimated Cost:** \$18,000

**Begin Year:** 2017

**Target Completion Year:** 2017

**Right of Way:**

**Changes from previous:**

**Description:** Remove aged wood play structure and replace with new system. Add site furnishings to create neighborhood gathering opportunities. Add new swing set. Add water access for drinking and BBQ support.

**Location:** 52 nd Street NE

**Environment:** N/A

**Challenges:** Funding

**Justification:** Supports ongoing maintenance of neighborhood park facility that has fallen in disrepair due to aged equipment. Improvements will enhance outdoor recreation opportunities and quality of life.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
001 - General	\$0	\$15,000	\$3,000	\$0	\$0	\$0	\$0	\$0	\$18,000
<b>Total:</b>	<b>\$0</b>	<b>\$15,000</b>	<b>\$3,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$18,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$0	\$15,000	\$3,000	\$0	\$0	\$0	\$0	\$0	\$18,000
<b>Total:</b>	<b>\$0</b>	<b>\$15,000</b>	<b>\$3,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$18,000</b>

**Policy Decisions:**

- Maintains or Improves Level of Service standards.
- Decreases demand on Operations & Maintenance resources.
- Funding expected 2 - 3 years after the project approved in the CFP.
- Increases infrastructure capacity to alleviate existing service deficiencies.

**Score:** 4



CFP - Project Descriptions

**Parks**

**Project Name:** Kiwanis Park Paving

**Manager:** Jim Ballew

**Project Number:**

**Budget Code:**

**Total Estimated Cost:** \$4,000

**Begin Year:** 2017

**Target Completion Year:** 2017

**Right of Way:**

**Changes from previous:**

**Description:** Paving of graveled parking area.

**Location:** 44th Street NE - Sunnyside

**Environment:** Drainage Plan

**Challenges:** Funding

**Justification:** Will enhance the parks accessibility.  
Will increase visitation and maintenance efficiencies.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
001 - General	\$0	\$4,000	\$0	\$0	\$0	\$0	\$0	\$0	\$4,000
<b>Total:</b>	<b>\$0</b>	<b>\$4,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$4,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$0	\$4,000	\$0	\$0	\$0	\$0	\$0	\$0	\$4,000
<b>Total:</b>	<b>\$0</b>	<b>\$4,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$4,000</b>

**Policy Decisions:**

- Maintains or Improves Level of Service standards.
- Decreases demand on Operations & Maintenance resources.
- Eliminates a risk or hazard to public health or safety.

**Score:** 3



## CFP - Project Descriptions

## Parks

**Project Name:** Mother Natures Window

**Manager:**

**Project Number:**

**Budget Code:**

**Total Estimated Cost:** \$1,500,000

**Begin Year:** 2017

**Target Completion Year:** 2019

**Right of Way:**

**Changes from previous:**

**Description:** Development of unimproved property for passive recreational uses. Public access, parking, utilities, trails, lighting, irrigation and drainage systems, site furnishings within 30 acre facility.

**Location:** 55th Ave NE and 100th St NE

**Environment:**

**Challenges:**

**Justification:** City acquired land through annexation for future development. Develop a pedestrian and bike system throughout the greater Marysville area. As possible, use creek corridors and the slough dike for a portion of these trails. These trails should connect all the Planning Areas, activity centers, park facilities, and open space system. Develop recreational facilities to provide accommodations for users of the area's recreational amenities.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Funding Needed	\$0	\$0	\$0	\$0	\$0	\$750,000	\$0	\$0	\$750,000
Grant Award	\$0	\$0	\$0	\$0	\$0	\$750,000	\$0	\$0	\$750,000
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,500,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,500,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$0	\$0	\$0	\$0	\$0	\$1,500,000	\$0	\$0	\$1,500,000
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,500,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,500,000</b>

**Policy Decisions:**

- Maintains or Improves Level of Service standards.
- Meets all environmental compliance requirements.
- Increases infrastructure capacity to alleviate existing service deficiencies.

**Score:** 3

## CFP - Project Descriptions

## Parks

**Project Name:** Bayview/Whiskey Ridge Trail South

**Manager:**

**Project Number:** 2016A1

**Budget Code:**

**Total Estimated Cost:** \$450,000

**Begin Year:** 2017

**Target Completion Year:** 2022

**Right of Way:**

**Changes from previous:**

**Description:** This project will provide funding to continue regional trail development of the Bayview and Whiskey Ridge trail system.

**Environmental Considerations:** Wetland Study and Mitigation Requirements.

**Location:** Power line Corridor

**Environment:**

**Challenges:**

**Justification:** Develop a pedestrian and bike system throughout the greater Marysville area. As possible, use creek corridors and the slough dike for a portion of these trails. These trails should connect all the Planning Areas, activity centers, park facilities, and open space system.

Develop recreational facilities to provide accommodations for users of the area's recreational amenities.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
310 - GMA Parks	\$0	\$0	\$0	\$0	\$0	\$200,000	\$0	\$0	\$200,000
Grant Award	\$0	\$0	\$0	\$0	\$0	\$250,000	\$0	\$0	\$250,000
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$450,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$450,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Preliminary Engineering	\$0	\$0	\$0	\$0	\$0	\$10,000	\$0	\$0	\$10,000
Design	\$0	\$0	\$0	\$0	\$0	\$20,000	\$0	\$0	\$20,000
Acquisition	\$0	\$0	\$0	\$0	\$0	\$15,000	\$0	\$0	\$15,000
Construction	\$0	\$0	\$0	\$0	\$0	\$405,000	\$0	\$0	\$405,000
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$450,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$450,000</b>

**Policy Decisions:**

Maintains or Improves Level of Service standards.

Increases infrastructure capacity to meet future growth needs.

**Score:** 2

## CFP - Project Descriptions

## Parks

**Project Name:** Ebey Waterfront Trail System

**Manager:** Parks

**Project Number:** P1301

**Budget Code:**

**Total Estimated Cost:** \$3,200,000

**Begin Year:** 2017

**Target Completion Year:** 2018

**Right of Way:** None

**Changes from previous:**

**Description:** This project will provide shoreline access and new trails surrounding the Qwuloolt Estuary. The project includes phased trail development on city property in concert with public access to the estuary. Trails are anticipated to connect Ebey Waterfront Park and Harborview Park area(s) to downtown access.

**Environmental Considerations:** The project will be accomplished in up to 4 phases and may require different levels of permitting for environmental approval.

**Challenges:** Easement acquisition, meeting construction schedule prior to actual breach of the existing dike which may prohibit over water construction.

**Location:** Ebey Waterfront Park to Olympic View Park

**Environment:** East and Central Trail alignment and conditions will require different design standards and construction practices.

**Challenges:** Funding and construction applications.

**Justification:** Develop a pedestrian and bike system throughout the greater Marysville area. As possible, use creek corridors and the slough dike for a portion of these trails. These trails should connect all the Planning Areas, activity centers, park facilities, and open space system.  
Develop recreational facilities to provide accommodations for users of the area's recreational amenities.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
310 - GMA Parks	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Grant Award	\$0	\$0	\$500,000	\$0	\$0	\$0	\$0	\$0	\$500,000
001 - General	\$0	\$0	\$2,700,000	\$0	\$0	\$0	\$0	\$0	\$2,700,000
	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$3,200,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$3,200,000</b>

Grants anticipated are a required 50% match program including- RCO WWRP, LWCF and ALEA Funding sources

<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$0	\$0	\$3,200,000	\$0	\$0	\$0	\$0	\$0	\$3,200,000
Construction	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$3,200,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$3,200,000</b>

### **Policy Decisions:**

Uses sustainable practices in construction.

Increases infrastructure capacity to alleviate existing service deficiencies.

Total capital cost of the project within the normal range for CFP projects (additional staff not needed).

Increases infrastructure capacity to alleviate existing service deficiencies.

Funded by a grant with identified local match.

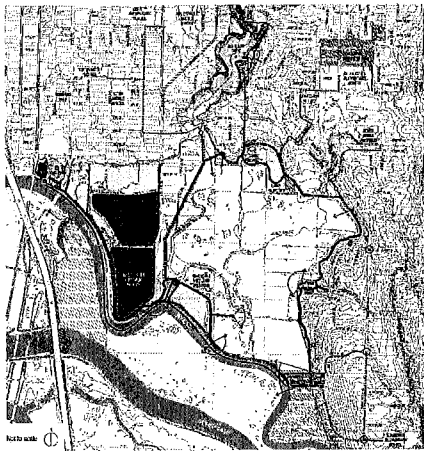
Total capital cost of the project within the normal range for CFP projects (additional staff not needed).

Maintains or Improves Level of Service standards.

**Score:** 7

CFP - Project Descriptions

Proposed Trail Alignment Plan



- LEGEND**
- Park
  - City Boundary
  - Utility Right-of-Way
  - Wetland
  - 100 Year Flood Line
  - 50 Year Flood
  - Highway Right-of-Way
  - Secondary Road Alignment
  - Railroad
  - Unimproved Construction
  - State Rd
  - Fencing
  - Ex. Well Top
  - Ex. Foundation/Structure
  - Electric Distribution
  - Access Point
  - Ex. Foundation/Well Pit Edge
  - Existing Culvert/Under
  - Crossing
  - Road Right
  - Structure or Improvement

Meyer/Reed

Marysville Edge Waterfront Trail | Draft Master Plan | February 22, 2016 | 4



CFP - Project Descriptions

**Parks**

*Project Name:* Mother Natures Window II *Manager:* Jim Ballew

*Project Number:* *Budget Code:* *Total Estimated Cost:* \$358,000

*Begin Year:* 2017 *Target Completion Year:* 2020 *Right of Way:* *Changes from previous:*

*Description:* Unimproved 35 acre park dedicated to the city from Snohomish County Parks. Project includes Master Planning and improvements for passive uses by a regional community. The park is a beautiful forested oasis centered in corporate Marysville limits. Improvements include access, parking, public restroom facilities, trail enhancements, fencing, signage, interpretative areas and programming areas that may also be utilized as rental facilities. An off leash dog park will also be considered on site.

*Location:* 100th at 55th Street NE

*Environment:* Sensitivity to existing forestry and passive uses.

*Challenges:* Current level of vandalism and illegal activities promote funding considerations.

*Justification:* Project will provide new regional and community park uses. Passive recreation and new trails will highlight the facility uses. New infrastructure will be developed to provide both public access and emergency response access to the site which is very difficult to service. This site was very popular when privately owned as a recreational opportunity.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
001 - General	\$0	\$15,000	\$0	\$0	\$33,000	\$0	\$0	\$0	\$48,000
310 - GMA Parks	\$0	\$0	\$0	\$0	\$155,000	\$0	\$0	\$0	\$155,000
Grant Award	\$0	\$0	\$0	\$0	\$155,000	\$0	\$0	\$0	\$155,000
<b>Total:</b>	<b>\$0</b>	<b>\$15,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$343,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$358,000</b>

<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Design/Study	\$0	\$15,000	\$0	\$0	\$0	\$0	\$0	\$0	\$15,000
Construction	\$0	\$0	\$0	\$0	\$343,000	\$0	\$0	\$0	\$343,000
<b>Total:</b>	<b>\$0</b>	<b>\$15,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$343,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$358,000</b>

**Policy Decisions:**

- Maintains or Improves Level of Service standards.
- Funded by a grant with identified local match.
- Funding expected 4 - 6 years after the project approved in the CFP.
- Uses sustainable practices in construction.
- Meets all environmental compliance requirements.
- Preserves or extends the life of an existing asset.
- Increases infrastructure capacity to meet future growth needs.

Score: 8

CFP - Project Descriptions

**Parks**

**Project Name:** Olympic View Park Development

**Manager:** Parks

**Project Number:**

**Budget Code:** 310

**Total Estimated Cost:** \$1,100,000

**Begin Year:** 2017

**Target Completion Year:** 2019

**Right of Way:** None

**Changes from previous:**

**Description:** Development of 11 acre site into community park and connection to Ebey Waterfront Trail system. Grant funds have been pursued through Recreation Conservation Office in 2016. Park features include: Restrooms, parking improvements, play areas, scenic overlooks, extensive ADA trail improvements to Ebey Trail connection, cartop boating launch/retrieval opportunity, utilities, lighting, landscaping and fencing.

**Location:** 49th Dr NE Sunnyside area

**Environment:** Building permit and drainage design

**Challenges:** Funding

**Justification:** Site is included in recent Comprehensive Park Plan 2016-2020. Site has been recognized by the state and approved within the economic development plan for the area.

<b>Funds:</b>	Prior	2017	2018	2019	2020	2021	2022	Beyond	Totals
Grant Award	\$0	\$0	\$0	\$500,000	\$0	\$0	\$0	\$0	\$500,000
310 - GMA Parks	\$0	\$0	\$0	\$600,000	\$0	\$0	\$0	\$0	\$600,000
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,100,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,100,000</b>

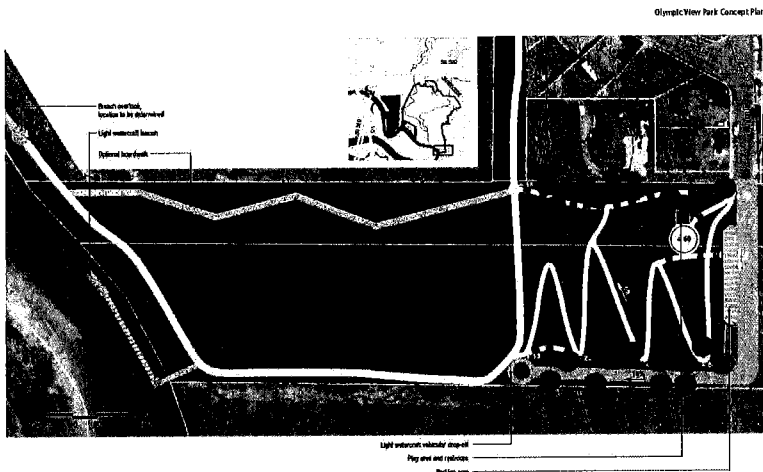
RCO funding allocation is pending for the 2016 cycle. If grant funds are not awarded the project may be delayed.

<b>Costs:</b>	Prior	2017	2018	2019	2020	2021	2022	Beyond	Totals
Construction	\$0	\$0	\$0	\$1,100,000	\$0	\$0	\$0	\$0	\$1,100,000
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,100,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,100,000</b>

**Policy Decisions:**

- Maintains or Improves Level of Service standards.
- Funded by a grant with identified local match.
- Increases infrastructure capacity to alleviate existing service deficiencies.
- Increases infrastructure capacity to meet future growth needs.
- Funding expected the year after the project approved in the CFP.

**Score:** 5



CFP - Project Descriptions

## CFP - Project Descriptions

## Parks

**Project Name:** Harborview Park Improvements

**Manager:** Jim Ballew

**Project Number:**

**Budget Code:**

**Total Estimated Cost:** \$60,000

**Begin Year:** 2017

**Target Completion Year:** 2018

**Right of Way:** None

**Changes from previous:**

**Description:** Park Improvements include: Expand current access to park for maintenance equipment access- utilizing installation of retaining wall. Replace existing fencing with new fabric coverings. Reduce pavilion size by 50% and add site furnishings to compliment community gatherings. Add irrigation system to soccer field and improve trail access.

**Location:** 52nd NE- Sunnyside Area

**Environment:** Improvements will enhance degrading environmental conditions.

**Challenges:** Vandalism culture and funding

**Justification:** Harborview has not been fully developed to its potential. Improvements will enhance recreational opportunities through the entire park. This park will also become a gateway facility for the Qwulooit trail. The parks services a larger population and is considered a community park. With improvements and removal of vegetation the park will be more environmentally visible which will encourage use and reduce vandalism events.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
001 - General	\$0	\$0	\$0	\$20,000	\$0	\$0	\$0	\$0	\$20,000
310 - GMA Parks	\$0	\$0	\$0	\$40,000	\$0	\$0	\$0	\$0	\$40,000
<b>Total:</b>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$60,000</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$60,000</i>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$0	\$0	\$0	\$60,000	\$0	\$0	\$0	\$0	\$60,000
<b>Total:</b>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$60,000</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$60,000</i>

**Policy Decisions:**

Decreases demand on Operations & Maintenance resources.

Uses sustainable practices in construction.

Eliminates a risk or hazard to public health or safety.

Preserves or extends the life of an existing asset.

Increases infrastructure capacity to meet future growth needs.

Total capital cost of the project within the normal range for CFP projects (additional staff not needed).

**Score:** 6

CFP - Project Descriptions



## CFP - Project Descriptions

## Parks

**Project Name:** Centennial Trail Connection**Manager:** Parks**Project Number:****Budget Code:****Total Estimated Cost:** \$1,200,000**Begin Year:** 2017**Target Completion Year:** 2019**Right of Way:** Need to Acquire **Changes from previous:**

**Description:** Development of a trail connection from Bayview Trail to the Snohomish County Centennial Trail corridor utilizing city owned property and authorized use of Marysville School District property. City owned approximately 11 acres of suitable land to be improved creating a trail from Marysville to the regional centennial trails system which spans most of Snohomish County.

**Location:** Bayview Trail 88th Street Connection**Environment:** Potential wetland mitigation at connection intersections**Challenges:** Funding

**Justification:** Trails are identified as a community priority in the City's Parks and Recreation Comprehensive Park Plan 2016-2020.

Direct connectivity to the Centennial Trail system has also been prioritized as there is no direct connection to the regional trail system in corporate Marysville.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Grant Award	\$0	\$0	\$0	\$500,000	\$0	\$0	\$0	\$0	\$500,000
310 - GMA Parks	\$0	\$0	\$0	\$700,000	\$0	\$0	\$0	\$0	\$700,000
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,200,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,200,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$0	\$0	\$0	\$0	\$0	\$1,200,000	\$0	\$0	\$1,200,000
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,200,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,200,000</b>

**Policy Decisions:**

- Maintains or Improves Level of Service standards.
- Funded by a grant with identified local match.
- Funding expected 2 - 3 years after the project approved in the CFP.
- Uses sustainable practices in construction.
- Increases infrastructure capacity to alleviate existing service deficiencies.
- Meets all environmental compliance requirements.
- Eliminates a risk or hazard to public health or safety.
- Increases infrastructure capacity to meet future growth needs.
- Uses innovative solutions, approaches, or use technology in creative ways.

**Score:** 9

## CFP - Project Descriptions

## Parks

**Project Name:** Crane Property Acquisition/Development

**Manager:** Jim Ballew

**Project Number:**

**Budget Code:**

**Total Estimated Cost:** \$200,000

**Begin Year:** 2017

**Target Completion Year:** 2020

**Right of Way:**

**Changes from previous:**

**Description:** Acquisition of 10.3 acres for park trailhead for Qwuloolt /Jennings Park connection was accomplished with funding from Snohomish County

**Location:** Sunnyside Blvd and 53rd Street NE

**Environment:** Site cleanup required. Project will require demolition of on site structures that were utilized for farming practices.

**Challenges:** Flood Zone

**Justification:** This property will provide a connection of the Jennings Park trail system to the Qwuloolt Trail system. The property can also serve as a trailhead for the Qwuloolt Trail area providing parking opportunities and space for restrooms and interpretive areas. Suitable for bus parking for classroom access.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
001 - General	\$0	\$0	\$0	\$0	\$100,000	\$0	\$0	\$0	\$100,000
Grant Award	\$0	\$0	\$0	\$0	\$100,000	\$0	\$0	\$0	\$100,000
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$200,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$200,000</b>

Grant request will be made in the amount of \$100,000 to cover development costs. Grant source is RCO.

<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Acquisition	\$0	\$240,000	\$0	\$0	\$0	\$0	\$0	\$0	\$240,000
Construction	\$0	\$0	\$0	\$100,000	\$0	\$0	\$0	\$0	\$100,000
<b>Total:</b>	<b>\$0</b>	<b>\$240,000</b>	<b>\$0</b>	<b>\$100,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$340,000</b>

**Policy Decisions:**

Maintains or Improves Level of Service standards.

Funded by a grant with identified local match.

Uses sustainable practices in construction.

Increases infrastructure capacity to alleviate existing service deficiencies.

Eliminates a risk or hazard to public health or safety.

Preserves or extends the life of an existing asset.

**Score:** 6

## CFP - Project Descriptions

## Parks

**Project Name:** Ebey Waterfront Park Development

**Manager:** Parks

**Project Number:**

**Budget Code:**

**Total Estimated Cost:** \$9,180,000

**Begin Year:** 2017

**Target Completion Year:** 2019

**Right of Way:** None

**Changes from previous:**

**Description:** Re-development of the Ebey Waterfront Park in concert with new development of the former Geddes Marina site for a regional / community park facility that will include the following elements: Storm water management, hardscape improvements to the tidal pond, carto boating access and training and storage center, trails and trail connection to Ebey Trail network, park and open space development for community special events and year round recreation, floating docks for miscellaneous uses including transient moorage. Project includes conversion of tidal pond into year round permanent pond configuration, utilities, miscellaneous support facilities, landscaping, utilities, picnicking and play areas including community amphitheater.

**Location:** Ebey Waterfront Park First Street

**Environment:** Shoreline permitting and storm water management.

**Challenges:** Funding and site conditions

**Justification:** Shoreline access to the city's only navigable waterway is highlighted in the Comprehensive Plan, Shoreline Master Plan and Downtown Master Plan(s)

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
001 - General	\$0	\$0	\$0	\$1,080,000	\$0	\$0	\$0	\$0	\$1,080,000
Funding Needed	\$0	\$0	\$0	\$0	\$8,100,000	\$0	\$0	\$0	\$8,100,000
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,080,000</b>	<b>\$8,100,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$9,180,000</b>

**Policy Decisions:**

Maintains or Improves Level of Service standards.

Funded by a grant with identified local match.

Funding expected 2 - 3 years after the project approved in the CFP.

Uses sustainable practices in construction.

Increases infrastructure capacity to alleviate existing service deficiencies.

Meets all environmental compliance requirements.

Preserves or extends the life of an existing asset.

Increases infrastructure capacity to meet future growth needs.

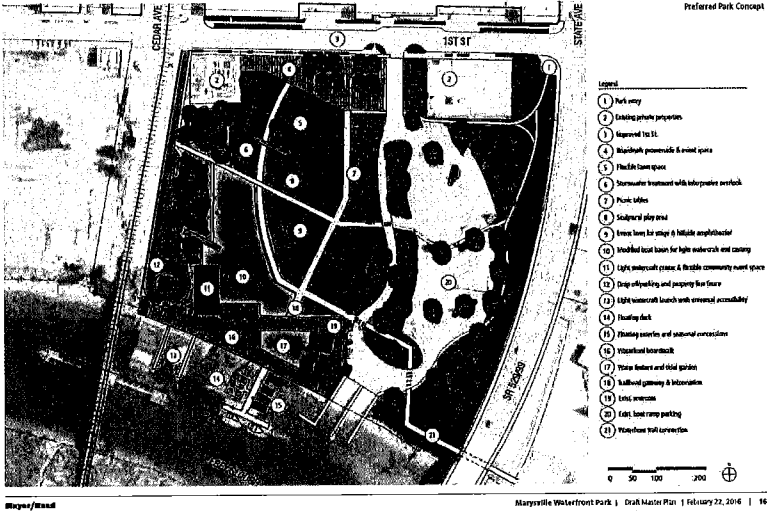
Attracts new businesses or helps retain existing businesses.

Failure to do the project or delaying the project will have major impacts on other projects or programs.

**Score:** 10



CFP - Project Descriptions



**Sewer**

**Project Name:** Sewer Comprehensive Plan

**Manager:** Adam Benton

**Project Number:**

**Budget Code:** 30500030.563000

**Total Estimated Cost:** \$275,000

**Begin Year:** 2017

**Target Completion Year:** 2018

**Right of Way:**

**Changes from previous:**

**Description:** Project will complete an update to the Sewer Comprehensive Plan

**Location:**

**Environment:**

**Challenges:**

**Justification:**

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
401 - Water/Sewer Operating	\$0	\$100,000	\$175,000	\$0	\$0	\$0	\$0	\$0	\$275,000
<b>Total:</b>	<b>\$0</b>	<b>\$100,000</b>	<b>\$175,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$275,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Design/Study	\$0	\$100,000	\$175,000	\$0	\$0	\$0	\$0	\$0	\$275,000
<b>Total:</b>	<b>\$0</b>	<b>\$100,000</b>	<b>\$175,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$275,000</b>

CFP - Project Descriptions

**Sewer**

*Project Name:* Carroll's Creek Emergengy Generator

*Manager:* Ryan Morrison

*Project Number:* S1601

*Budget Code:*

*Total Estimated Cost:* \$200,000

*Begin Year:* 2017

*Target Completion Year:* 2017

*Right of Way:*

*Changes from previous:*

*Description:* This project will install a new emergency generator at the Carroll's Creek Sewer Lift Station.

*Location:*

*Environment:*

*Challenges:*

*Justification:*

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
402 - Utility Construction	\$100,000	\$100,000	\$0	\$0	\$0	\$0	\$0	\$0	\$200,000
<b>Total:</b>	<b>\$100,000</b>	<b>\$100,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$200,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Other	\$100,000	\$100,000	\$0	\$0	\$0	\$0	\$0	\$0	\$200,000
<b>Total:</b>	<b>\$100,000</b>	<b>\$100,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$200,000</b>

Design and Construction

## CFP - Project Descriptions

## Sewer

**Project Name:** Cedarcrest Pump Station Emergency Generator

**Manager:** Adam Benton

**Project Number:**

**Budget Code:** 40230594.563000

**Total Estimated Cost:** \$240,000

**Begin Year:** 2017

**Target Completion Year:** 2017

**Right of Way:**

**Changes from previous:**

**Description:** This project will include installation of an emergency generator, wiring, and automated transfer switch at the pump station.

**Location:** Cedarcrest Vista Pump Station

**Environment:**

**Challenges:**

**Justification:** To provide emergency power to the station during prolonged power outages. The condition of infrastructure should be assessed at appropriate intervals, and be rehabilitated, repaired, or maintained as necessary.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
402 - Utility Construction	\$65,000	\$175,000	\$0	\$0	\$0	\$0	\$0	\$0	\$240,000
<b>Total:</b>	<b>\$65,000</b>	<b>\$175,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$240,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Design/Study	\$65,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$65,000
Construction	\$0	\$175,000	\$0	\$0	\$0	\$0	\$0	\$0	\$175,000
<b>Total:</b>	<b>\$65,000</b>	<b>\$175,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$240,000</b>

**Policy Decisions:**

Affects all customers within a recognized neighborhood or area.

Maintains or Improves Level of Service standards.

Score: 2

## CFP - Project Descriptions

## Sewer

**Project Name:** Whiskey Ridge Sewer Pump Station and Forcemain

**Manager:**

**Project Number:** S1701

**Budget Code:** 40230594.563000

**Total Estimated Cost:** \$2,000,000

**Begin Year:** 2017

**Target Completion Year:** 2019

**Right of Way:** Need to Acquire *Changes from previous:*

**Description:** This project will design and construct a sewer pump station to serve future development within the Whiskey Ridge subarea.

**Location:** Approximate location for the pump station is near the intersection of Densmore Rd. and the Sunnyside School Road. Force main will be installed in existing right of way along Densmore Rd.

**Environment:** SEPA environmental review is required.

**Challenges:** Finding a site location to construct the pump station may be challenging.

**Justification:** To accommodate growth in the Sunnyside/Whiskey Ridge area.  
 Provide efficient construction of public services and facilities that are consistent with the comprehensive land use plan and available to serve the community concurrent with increased demand generated by new construction.  
 Provide urban level facilities and services only in Urban Growth Areas.  
 Provide urban level facilities and services in Urban Growth Areas to avoid health hazards, enhance the quality of life, and maintain viable, efficient, and cost-effective delivery.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
402 - Utility Construction	\$0	\$750,000	\$1,250,000	\$0	\$0	\$0	\$0	\$0	\$2,000,000
<b>Total:</b>	<b>\$0</b>	<b>\$750,000</b>	<b>\$1,250,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$2,000,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
	\$0	\$400,000	\$0	\$0	\$0	\$0	\$0	\$0	\$400,000
Land & ROW	\$0	\$350,000	\$0	\$0	\$0	\$0	\$0	\$0	\$350,000
Construction	\$0	\$0	\$1,250,000	\$0	\$0	\$0	\$0	\$0	\$1,250,000
<b>Total:</b>	<b>\$0</b>	<b>\$750,000</b>	<b>\$1,250,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$2,000,000</b>

**Policy Decisions:**

- Maintains or Improves Level of Service standards.
- Increases infrastructure capacity to alleviate existing service deficiencies.
- Attracts new businesses or helps retain existing businesses.

**Score:** 3

CFP - Project Descriptions

**Sewer**

**Project Name:** Renewals and Replacements

**Manager:** Kyle Woods

**Project Number:** Sewer R&R

**Budget Code:** 40230594.563000

**Total Estimated Cost:** \$1,850,000

**Begin Year:** 2017

**Target Completion Year:** 2022

**Right of Way:**

**Changes from previous:**

**Description:** The city has budgeted 350,000 in 2017 and \$0 in 2018. The City anticipates budgeting \$300,000 annually beginning in 2018 to cover renewals and replacements of 8 inch or smaller pipes within the sewer collection system.

**Location:** Various locations throughout the collection system.

**Environment:**

**Challenges:**

**Justification:** Ongoing renewal/replacement of the collection system. The condition of infrastructure should be assessed at appropriate intervals, and be rehabilitated, repaired, or maintained as necessary.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
402 - Utility Construction	\$0	\$350,000	\$0	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$1,850,000
<b>Total:</b>	\$0	\$350,000	\$0	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$1,850,000
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Design/Study	\$0	\$5,000	\$0	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$30,000
Plans & Specifications	\$0	\$15,000	\$0	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$65,000
Construction	\$0	\$330,000	\$0	\$285,000	\$285,000	\$285,000	\$285,000	\$285,000	\$1,755,000
<b>Total:</b>	\$0	\$350,000	\$0	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$1,850,000

**Policy Decisions:**

Maintains or Improves Level of Service standards.

Preserves or extends the life of an existing asset.

**Score:** 2

## CFP - Project Descriptions

**Sewer***Project Name:* Chemical Tank Upgrades - WWTP*Manager:* Kari Chennault*Project Number:**Budget Code:* 40142480.*Total Estimated Cost:* \$95,000*Begin Year:* 2017*Target Completion Year:* 2018*Right of Way:**Changes from previous:**Description:* Due to the increase of waste flow and age of existing tanks, additional storage capacity for chemicals is needed.*Location:**Environment:**Challenges:**Justification:*

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
401 - Water/Sewer Operating	\$0	\$0	\$95,000	\$0	\$0	\$0	\$0	\$0	\$95,000
<b>Total:</b>	\$0	\$0	\$95,000	\$0	\$0	\$0	\$0	\$0	\$95,000
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$0	\$0	\$0	\$95,000	\$0	\$0	\$0	\$0	\$95,000
<b>Total:</b>	\$0	\$0	\$0	\$95,000	\$0	\$0	\$0	\$0	\$95,000

CFP - Project Descriptions

**Sewer**

*Project Name:* Filter Feed Pump Replacements

*Manager:* Kari Chennault

*Project Number:*

*Budget Code:* 40142480.

*Total Estimated Cost:* \$400,000

*Begin Year:* 2017

*Target Completion Year:* 2018

*Right of Way:* None

*Changes from previous:*

*Description:* Provide for the replacement of 2 of 4 filter feed pumps at the Waste Water Treatment Plant and associated controls.

*Location:* 20 Columbia Avenue

*Environment:*

*Challenges:*

*Justification:*

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
401 - Water/Sewer Operating	\$0	\$0	\$400,000	\$0	\$0	\$0	\$0	\$0	\$400,000
<b>Total:</b>	\$0	\$0	\$400,000	\$0	\$0	\$0	\$0	\$0	\$400,000
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$0	\$0	\$0	\$400,000	\$0	\$0	\$0	\$0	\$400,000
<b>Total:</b>	\$0	\$0	\$0	\$400,000	\$0	\$0	\$0	\$0	\$400,000

## CFP - Project Descriptions

## Sewer

Project Name: WWTP Headworks Rehab

Manager: Jay Cooke

Project Number: S1503

Budget Code: 40230594.563000

Total Estimated Cost: \$4,000,000

Begin Year: 2017

Target Completion Year: 2018

Right of Way:

Changes from previous:

**Description:** This project will include design and construction of a new headworks structure at the wastewater treatment facility.

**Location:** WWTP

**Environment:**

**Challenges:**

**Justification:** The headworks structure is in need of assessment as the existing bar screens do not do an adequate job of removing floatables and rags prior to treatment. Installation of a cover over the headworks structure would provide better life cycle protection of equipment exposed to the weather.

<b>Funds:</b>	Prior	2017	2018	2019	2020	2021	2022	Beyond	Totals
402 - Utility Construction	\$400,000	\$100,000	\$3,500,000	\$0	\$0	\$0	\$0	\$0	\$4,000,000
<b>Total:</b>	<b>\$400,000</b>	<b>\$100,000</b>	<b>\$3,500,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$4,000,000</b>
<b>Costs:</b>	Prior	2017	2018	2019	2020	2021	2022	Beyond	Totals
Design/Study	\$400,000	\$100,000	\$0	\$0	\$0	\$0	\$0	\$0	\$500,000
Construction	\$0	\$0	\$3,500,000	\$0	\$0	\$0	\$0	\$0	\$3,500,000
<b>Total:</b>	<b>\$400,000</b>	<b>\$100,000</b>	<b>\$3,500,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$4,000,000</b>

**Policy Decisions:**

Score: 2



CFP - Project Descriptions

**Sewer**

*Project Name:* Sewer Main Oversizing

*Manager:* None

*Project Number:* S0000

*Budget Code:* 40230594.563000

*Total Estimated Cost:* \$240,000

*Begin Year:* 2017

*Target Completion Year:* 2022

*Right of Way:*

*Changes from previous:*

*Description:* In some cases, Marysville requires developers to install lines larger than necessary to serve solely their developments, in order to account for future growth in system capacity.

*Location:* Various locations throughout the city as needed.

*Environment:*

*Challenges:*

*Justification:* Improvement of collection system capacities.

Provide efficient construction of public services and facilities that are consistent with the comprehensive land use plan and available to serve the community concurrent with increased demand generated by new construction.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
402 - Utility Construction	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$240,000
<b>Total:</b>	<i>\$30,000</i>	<i>\$30,000</i>	<i>\$30,000</i>	<i>\$30,000</i>	<i>\$30,000</i>	<i>\$30,000</i>	<i>\$30,000</i>	<i>\$30,000</i>	<i>\$240,000</i>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$240,000
<b>Total:</b>	<i>\$30,000</i>	<i>\$30,000</i>	<i>\$30,000</i>	<i>\$30,000</i>	<i>\$30,000</i>	<i>\$30,000</i>	<i>\$30,000</i>	<i>\$30,000</i>	<i>\$240,000</i>

**Policy Decisions:**

Maintains or Improves Level of Service standards.

Increases infrastructure capacity to meet future growth needs.

Score: 2

CFP - Project Descriptions

**Sewer**

**Project Name:** Kellogg Lift Station Pre-Rotation Basin

**Manager:** Kari Chennault

**Project Number:**

**Budget Code:**

**Total Estimated Cost:** \$185,000

**Begin Year:** 2017

**Target Completion Year:** 2017

**Right of Way:** None

**Changes from previous:**

**Description:** Replace the wet well at the Kellogg Lift Station with a prefabricated pre-rotation basin.

**Location:** Kellogg Lift Station

**Environment:**

**Challenges:**

**Justification:**

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
401 - Water/Sewer Operating	\$0	\$185,000	\$0	\$0	\$0	\$0	\$0	\$0	\$185,000
<b>Total:</b>	\$0	\$185,000	\$0	\$0	\$0	\$0	\$0	\$0	\$185,000
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$0	\$0	\$185,000	\$0	\$0	\$0	\$0	\$0	\$185,000
<b>Total:</b>	\$0	\$0	\$185,000	\$0	\$0	\$0	\$0	\$0	\$185,000

**Surface Water**

**Project Name:** Conveyance for Regional detention Ponds No. 1 and 2 **Manager:** Kari Chennault

**Project Number:** **Budget Code:** 40250594.563000 **Total Estimated Cost:** \$4,901,000

**Begin Year:** 2017 **Target Completion Year:** 2019 **Right of Way:** Need to Acquire **Changes from previous:**

**Description:** Provide for conveyance to the new regional ponds with approximately 2,850 linear feet of 24-inch pipe, 1,900 linear feet of 30-inch pipe, 4,400 linear feet of 36-inch pipe, and 3,510 linear feet of 42-inch pipe. This project will also require the installation of approximately 40 manholes ranging in size from 48 inch to 72 inch.

**Location:** 40th Avenue NE, just south of 152nd Street NE

**Environment:** High groundwater, regulatory permitting, wetlands.

**Challenges:** Lack of gradient, high groundwater,

**Justification:**

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Funding Needed	\$0	\$0	\$0	\$4,901,000	\$0	\$0	\$0	\$0	\$4,901,000
<b>Total:</b>	\$0	\$0	\$0	\$4,901,000	\$0	\$0	\$0	\$0	\$4,901,000
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
	\$0	\$0	\$0	\$0	\$4,901,000	\$0	\$0	\$0	\$4,901,000
<b>Total:</b>	\$0	\$0	\$0	\$0	\$4,901,000	\$0	\$0	\$0	\$4,901,000

## CFP - Project Descriptions

## Surface Water

**Project Name:** Third/First Street Retrofit

**Manager:** Adam Benton

**Project Number:** D1502/D1503    **Budget Code:** 40250594.563000

**Total Estimated Cost:** \$2,234,000

**Begin Year:** 2017    **Target Completion Year:** 2017    **Right of Way:** Need to Acquire    **Changes from previous:**

**Description:** This project is for the retrofit design and construction of 3rd Street from Columbia Ave to Union Ave and First Street from the RR tracks to State Ave using Low Impact Development (LID) to treat and retain stormwater runoff. The project design is fully funded by a Department of Ecology grant and the City intends to apply for grant funding for 75% of the project's construction costs.

**Location:** Third Street and First Street

**Environment:** SEPA environmental review is required

**Challenges:**

**Justification:**

<b>Funds:</b>	Prior	2017	2018	2019	2020	2021	2022	Beyond	Totals
Grant Award	\$585,500	\$1,000,000	\$0	\$0	\$0	\$0	\$0	\$0	\$1,585,500
402 - Utility Construction	\$120,000	\$528,500	\$0	\$0	\$0	\$0	\$0	\$0	\$648,500
<b>Total:</b>	<b>\$705,500</b>	<b>\$1,528,500</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$2,234,000</b>

DOE Grant

<b>Costs:</b>	Prior	2017	2018	2019	2020	2021	2022	Beyond	Totals
Design/Study	\$35,000	\$50,000	\$0	\$0	\$0	\$0	\$0	\$0	\$85,000
Construction	\$670,500	\$1,478,500	\$0	\$0	\$0	\$0	\$0	\$0	\$2,149,000
<b>Total:</b>	<b>\$705,500</b>	<b>\$1,528,500</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$2,234,000</b>

**Policy Decisions:**

Uses innovative solutions, approaches, or use technology in creative ways.

Funded by a grant with identified local match.

**Score:** 2

## CFP - Project Descriptions

## Surface Water

**Project Name:** Water Quality Treatment Facility at Downtown Marina Outfall      **Manager:** Kari Chennault  
**Project Number:**                      **Budget Code:** 40250594.563000      **Total Estimated Cost:** \$7,000,000  
**Begin Year:** 2017      **Target Completion Year:** 2017      **Right of Way:** Acquired      **Changes from previous:** No

**Description:** This project will provide for a treatment facility and associated lift station to treat as much of the 480 acre downtown stormwater basin as is feasible.

**Location:** State Ave from 76th St NE to Ebey Slough

**Environment:** Potential contaminates on facility property, shoreline considerations, regulatory permitting.

**Challenges:**

**Justification:** The existing drainage conveyance system capacity in downtown Marysville is insufficient. Tidal influence creates tailwater conditions that further reduce conveyance capacity during high tides. The condition of infrastructure should be assessed at appropriate intervals, and be rehabilitated, repaired, or maintained as necessary.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
402 - Utility Construction	\$0	\$7,000,000	\$0	\$0	\$0	\$0	\$0	\$0	\$7,000,000
<b>Total:</b>	\$0	\$7,000,000	\$0	\$0	\$0	\$0	\$0	\$0	\$7,000,000
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
	\$0	\$0	\$7,000,000	\$0	\$0	\$0	\$0	\$0	\$7,000,000
<b>Total:</b>	\$0	\$0	\$7,000,000	\$0	\$0	\$0	\$0	\$0	\$7,000,000

**Policy Decisions:**

Score: 4

**Surface Water**

**Project Name:** Edgecomb Creek Channel Realignment

**Manager:** Kari Chennault

**Project Number:**

**Budget Code:** 40250594.563000

**Total Estimated Cost:** \$19,042,000

**Begin Year:** 2017

**Target Completion Year:** 2023

**Right of Way:** Need to Acquire **Changes from previous:**

**Description:** Provide for the realignment of approximately two miles of Edgecomb Creek between 154th Drive NE and 172nd Street NE. This project includes installing 5 fish passable culverts, two under the BNSF RR, two railroad access road culverts and one culvert under 152nd Street NE.

**Location:** Between 154th Drive NE and 172nd Street NE

**Environment:** Lack of slope, high groundwater, regulatory permitting

**Challenges:** Property acquisitions,

**Justification:** As recommended in the Comprehensive Plan.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Funding Needed	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$19,042,000	\$19,042,000
<b>Total:</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$19,042,000	\$19,042,000
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$19,042,000	\$19,042,000
<b>Total:</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$19,042,000	\$19,042,000

CFP - Project Descriptions

**Surface Water**

**Project Name:** Edgecomb Creek Conveyance

**Manager:** Kari Chennault

**Project Number:**

**Budget Code:** 40250594.563000

**Total Estimated Cost:** \$0

**Begin Year:** 2017

**Target Completion Year:** 2022

**Right of Way:** Need to Acquire **Changes from previous:**

**Description:** Provide for stormwater conveyance to convey water to a regional detention facility via the installation of 2,100 linear feet of 24-inch pipe, 1,300 linear feet of 30-inch pipe, 3,250 linear feet of 36-inch diameter pipe, 1,300 linear feet of 42-inch pipe and 2,600 linear feet of 54-inch diameter pipe. The project will also require the installation of approximately 33 manholes ranging in size from 48 inch to 84 inch.

**Location:** North of 152nd Street NE and South of 172nd Street NE near Edgecomb Creek

**Environment:** High groundwater, lack of gradient, regulatory permitting

**Challenges:**

**Justification:** As recommended in the Comprehensive Plan.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Funding Needed	\$0	\$0	\$0	\$0	\$8,517,000	\$0	\$0	\$0	\$8,517,000
<b>Total:</b>	\$0	\$0	\$0	\$0	\$8,517,000	\$0	\$0	\$0	\$8,517,000
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
	\$0	\$0	\$0	\$0	\$0	\$0	\$8,517,000	\$0	\$8,517,000
<b>Total:</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$8,517,000	\$0	\$8,517,000

## CFP - Project Descriptions

## Surface Water

**Project Name:** Edgecomb Creek Regional Detention Facility

**Manager:** Kari Chennault

**Project Number:**

**Budget Code:** 40250594.563000

**Total Estimated Cost:** \$5,054,000

**Begin Year:** 2017

**Target Completion Year:** 2021

**Right of Way:** Need to Acquire **Changes from previous:**

**Description:** Provide for the design and construction of a regional detention facility to accept water from the right-of-ways and developable areas north of 152nd Street NE and south of Marysville City Limits.

**Location:** 152nd Street NE, south of Marysville City Limits

**Environment:** High groundwater, lack of gradient, regulatory permitting

**Challenges:**

**Justification:** As recommended in the Comprehensive Plan.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
402 - Utility Construction	\$0	\$0	\$0	\$0	\$0	\$5,054,000	\$0	\$0	\$5,054,000
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$5,054,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$5,054,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Design/Study	\$0	\$0	\$0	\$0	\$0	\$300,000	\$0	\$0	\$300,000
Construction	\$0	\$0	\$0	\$0	\$0	\$4,754,000	\$0	\$0	\$4,754,000
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$5,054,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$5,054,000</b>



CFP - Project Descriptions

**Surface Water**

*Project Name:* Decant Facility Upgrades, Phase II

*Manager:* Matthew Eyer

*Project Number:* D1504

*Budget Code:* 40250594.563000

*Total Estimated Cost:* \$395,000

*Begin Year:* 2017

*Target Completion Year:* 2017

*Right of Way:*

*Changes from previous:*

*Description:* Expansion of the existing decant facility

*Location:*

*Environment:*

*Challenges:*

*Justification:*

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Grant Award	\$0	\$296,250	\$0	\$0	\$0	\$0	\$0	\$0	\$296,250
402 - Utility Construction	\$35,000	\$68,750	\$0	\$0	\$0	\$0	\$0	\$0	\$103,750
<b>Total:</b>	<b>\$35,000</b>	<b>\$365,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$400,000</b>

DOE Grant

<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Design/Study	\$0	\$35,000	\$0	\$0	\$0	\$0	\$0	\$0	\$35,000
Construction	\$0	\$0	\$360,000	\$0	\$0	\$0	\$0	\$0	\$360,000
<b>Total:</b>	<b>\$0</b>	<b>\$35,000</b>	<b>\$360,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$395,000</b>

CFP - Project Descriptions

**Transportation**

**Project Name:** Sunnyside Elementary Safe Routes to School Project

**Manager:** Kyle Woods

**Project Number:** M1601

**Budget Code:** 30500030.563000

**Total Estimated Cost:** \$350,000

**Begin Year:** 2017

**Target Completion Year:** 2017

**Right of Way:** Acquired

**Changes from previous:**

**Description:** The project will construct sidewalk improvements along Sunnyside Blvd from 38th Pl NE to 36th St NE at the entrance to Sunnyside Elementary School

**Location:**

**Environment:**

**Challenges:**

**Justification:**

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Grant Award	\$105,000	\$100,000	\$0	\$0	\$0	\$0	\$0	\$0	\$205,000
305 - GMA Streets	\$95,000	\$50,000	\$0	\$0	\$0	\$0	\$0	\$0	\$145,000
<b>Total:</b>	<b>\$200,000</b>	<b>\$150,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$350,000</b>

WSDOT Safe Routes to School Grant. The remaining project is funded under by the Transportation Benefit District

<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Design/Study	\$25,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$25,000
Land & ROW	\$50,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$50,000
Construction	\$125,000	\$150,000	\$0	\$0	\$0	\$0	\$0	\$0	\$275,000
<b>Total:</b>	<b>\$200,000</b>	<b>\$150,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$350,000</b>

## CFP - Project Descriptions

## Transportation

**Project Name:** SR 529/Interstate 5 Interchange Expansion

**Manager:**

**Project Number:**

**Budget Code:**

**Total Estimated Cost:** \$57,100,000

**Begin Year:** 2017

**Target Completion Year:** 2022

**Right of Way:** Need to Acquire **Changes from previous:**

**Description:** Construct a new northbound off ramp from I-5 to SR 529 and a new southbound on ramp from SR 529 to I-5. Initial phase completes the interchange justification report. Project is fully funded under Connecting Washington and will be administered as a design/build contract under WSDOT.

**Location:** SR 529 at Interstate 5

**Environment:**

**Challenges:**

**Justification:** Improve safety, reduce traffic congestion and provide for current and future economic and commercial/light industrial development.

Identify improvements and strategies needed to carry out the land use vision and meet the LOS requirements for transportation.

Coordinate with local, regional, state, and federal agencies in the development and operation of the transportation system that contribute to the relief of traffic congestion.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
001 - General	\$2,000,000	\$100,000	\$0	\$0	\$0	\$0	\$0	\$0	\$2,100,000
Other (see notes)	\$0	\$0	\$1,000,000	\$6,000,000	\$15,000,000	\$15,000,000	\$10,000,000	\$3,000,000	\$50,000,000
Grant Award	\$0	\$0	\$0	\$0	\$2,500,000	\$2,500,000	\$0	\$0	\$5,000,000
<b>Total:</b>	<b>\$2,000,000</b>	<b>\$100,000</b>	<b>\$1,000,000</b>	<b>\$6,000,000</b>	<b>\$17,500,000</b>	<b>\$17,500,000</b>	<b>\$10,000,000</b>	<b>\$3,000,000</b>	<b>\$57,100,000</b>

### Connecting Washington

<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Design/Study	\$2,000,000	\$100,000	\$0	\$0	\$0	\$0	\$0	\$0	\$2,100,000
Construction	\$0	\$0	\$1,000,000	\$6,000,000	\$17,500,000	\$17,500,000	\$10,000,000	\$3,000,000	\$55,000,000
<b>Total:</b>	<b>\$2,000,000</b>	<b>\$100,000</b>	<b>\$1,000,000</b>	<b>\$6,000,000</b>	<b>\$17,500,000</b>	<b>\$17,500,000</b>	<b>\$10,000,000</b>	<b>\$3,000,000</b>	<b>\$57,100,000</b>

### Policy Decisions:

Maintains or Improves Level of Service standards.

Increases infrastructure capacity to meet future growth needs.

Attracts new businesses or helps retain existing businesses.

Increases infrastructure capacity to alleviate existing service deficiencies.

Eliminates a risk or hazard to public health or safety.

Failure to do the project or delaying the project will have major impacts on other projects or programs.

**Score:** 6

CFP - Project Descriptions

**Transportation**

*Project Name:* 83rd and Soper Hill Rd Intersection Improvements

*Manager:* Jeff Laycock

*Project Number:* R1705

*Budget Code:* 30500030.563000

*Total Estimated Cost:* \$650,000

*Begin Year:* 2017

*Target Completion Year:* 2018

*Right of Way:* Need to Acquire *Changes from previous:*

*Description:* This project will construct a new compact roundabout at the intersection of Soper Hill Rd and 83rd Ave NE. This project is located within Lake Stevens jurisdiction. The project is being required due to the growth within Whiskey Ridge. An ILA between Lake Stevens and Marysville will allow Marysville to recoup impact fees for the project.

*Location:*

*Environment:*

*Challenges:*

*Justification:*

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
305 - GMA Streets	\$0	\$0	\$650,000	\$0	\$0	\$0	\$0	\$0	\$650,000
<b>Total:</b>	\$0	\$0	\$650,000	\$0	\$0	\$0	\$0	\$0	\$650,000

ILA between Marysville and Lake Stevens

<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Other	\$0	\$0	\$650,000	\$0	\$0	\$0	\$0	\$0	\$650,000
<b>Total:</b>	\$0	\$0	\$650,000	\$0	\$0	\$0	\$0	\$0	\$650,000

Design, Right-of-Way, Construction

**Policy Decisions:**

Increases infrastructure capacity to meet future growth needs.

Score: 1

CFP - Project Descriptions

**Transportation**

**Project Name:** State Ave 1st to 80th Safety Grant

**Manager:** Jay Cooke

**Project Number:** R1302

**Budget Code:** 30500030.563000

**Total Estimated Cost:** \$1,320,000

**Begin Year:** 2017

**Target Completion Year:** 2018

**Right of Way:** Need to Acquire **Changes from previous:** 88th

**Description:** Improve traffic signal timing and phasing, improve visibility of traffic signal heads, improve conditions for pedestrians in crosswalks, add illumination and a right turn lane and install signs. Improvements occur at the intersections of State Ave. NE and 1st, 2nd, 3rd, 4th, 6th, 8th, 76th and a new traffic signal at 80th St. NE. These projects have come about due to grant funding through WSDOT HSIP.

**Location:** State Ave 1st to 80th

**Environment:**

**Challenges:**

**Justification:**

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Other (see notes)	\$220,000	\$500,000	\$600,000	\$0	\$0	\$0	\$0	\$0	\$1,320,000
<b>Total:</b>	<b>\$220,000</b>	<b>\$500,000</b>	<b>\$600,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,320,000</b>

**Highway Safety Improvement Program**

<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Plans & Specifications	\$220,000	\$20,000	\$0	\$0	\$0	\$0	\$0	\$0	\$240,000
Land & ROW	\$0	\$80,000	\$0	\$0	\$0	\$0	\$0	\$0	\$80,000
Construction	\$0	\$400,000	\$600,000	\$0	\$0	\$0	\$0	\$0	\$1,000,000
<b>Total:</b>	<b>\$220,000</b>	<b>\$500,000</b>	<b>\$600,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,320,000</b>

**Policy Decisions:**

Maintains or Improves Level of Service standards.

Score: 1

**Transportation**

**Project Name:** First Street Bypass

**Manager:** Jeff Laycock

**Project Number:** R0901

**Budget Code:** 30500030.563000

**Total Estimated Cost:** \$14,000,000

**Begin Year:** 2017

**Target Completion Year:** 2020

**Right of Way:** Need to Acquire **Changes from previous:**

**Description:** Construct a new roadway alignment between SR 529 at 1st St and Sunnyside Blvd to better accommodate commute traffic around the downtown core.

**Location:** Alignment to be determined, between State Avenue and 47th Ave NE

**Environment:** Wetland impacts east of of Alder Ave to 47th Ave NE

**Challenges:** Right-of-way impacts. Permitting.

**Justification:** Improve safety, reduce traffic congestion and provide for current and future economic and commercial/light industrial development.

Improve safety, reduce traffic congestion and provide for current and future economic and commercial/light industrial development.

Identify improvements and strategies needed to carry out the land use vision and meet the Level-of-Service requirements for transportation.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
305 - GMA Streets	\$500,000	\$3,000,000	\$3,000,000	\$7,500,000	\$0	\$0	\$0	\$0	\$14,000,000
<b>Total:</b>	<b>\$500,000</b>	<b>\$3,000,000</b>	<b>\$3,000,000</b>	<b>\$7,500,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$14,000,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Design/Study	\$0	\$500,000	\$250,000	\$0	\$0	\$0	\$0	\$0	\$750,000
Land & ROW	\$500,000	\$2,500,000	\$250,000	\$0	\$0	\$0	\$0	\$0	\$3,250,000
Construction	\$0	\$0	\$2,500,000	\$7,500,000	\$0	\$0	\$0	\$0	\$10,000,000
<b>Total:</b>	<b>\$500,000</b>	<b>\$3,000,000</b>	<b>\$3,000,000</b>	<b>\$7,500,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$14,000,000</b>

**Policy Decisions:**

Maintains or Improves Level of Service standards.

Increases infrastructure capacity to meet future growth needs.

Attracts new businesses or helps retain existing businesses.

Increases infrastructure capacity to alleviate existing service deficiencies.

Score: 4

## CFP - Project Descriptions

## Transportation

**Project Name:** 88th Street NE (State Ave – 67th Ave)

**Manager:** Jeff Laycock

**Project Number:** R1101, R1701    **Budget Code:** 30500030.563000

**Total Estimated Cost:** \$20,440,000

**Begin Year:** 2017    **Target Completion Year:** 2025    **Right of Way:** Need to Acquire    **Changes from previous:**

**Description:** Construct a 3-lane principal arterial with curb, gutter, sidewalk, and streetscape. Project includes bicycle lanes from 67th Ave NE to 51st Ave NE. Project includes intersection improvements at State Ave with lane widening on 88th St NE. Project will likely be phased. Beginning in 2017, the funds are planned for design from east of State Ave to 55th Ave NE. Also planned for 2017, the City will be coordinating with the cemetery to acquire right-of-way for expansion near the intersection of State Ave and 88th St NE.

**Location:** 88th Street NE from State Avenue to 67th Avenue NE

**Environment:** Stream and buffer impacts to Allen Creek.

**Challenges:** Cemetery impacts. Limited right-of-way. Stream and buffer impacts to Allen Creek.

**Justification:** Improve safety, mobility and level-of-service.

Identify improvements and strategies needed to carry out the land use vision and meet the Level-of-Service requirements for transportation.

Improve street safety and functions.

Establish a non-motorized circulation system linking key community destinations.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Funding Needed	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$17,540,000	\$17,540,000
305 - GMA Streets	\$0	\$400,000	\$400,000	\$0	\$0	\$0	\$0	\$0	\$800,000
Other (see notes)	\$0	\$400,000	\$400,000	\$0	\$0	\$0	\$0	\$1,300,000	\$2,100,000
<b>Total:</b>	<b>\$0</b>	<b>\$800,000</b>	<b>\$800,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$18,840,000</b>	<b>\$20,440,000</b>

County Match, approx. \$2.1M remaining per ILA

<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Land & ROW	\$0	\$0	\$600,000	\$600,000	\$0	\$0	\$0	\$2,174,000	\$3,374,000
Design/Study	\$0	\$0	\$200,000	\$200,000	\$0	\$0	\$0	\$750,000	\$1,150,000
Construction	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$15,916,000	\$15,916,000
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$800,000</b>	<b>\$800,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$18,840,000</b>	<b>\$20,440,000</b>

**Policy Decisions:**

Maintains or Improves Level of Service standards.

Increases infrastructure capacity to meet future growth needs.

Increases infrastructure capacity to alleviate existing service deficiencies.

Eliminates a risk or hazard to public health or safety.

**Score:** 4

CFP - Project Descriptions

**Transportation**

**Project Name:** SR528 Pedestrian Signal

**Manager:** Ryan Morrison

**Project Number:** R1501

**Budget Code:** 30500030.563000

**Total Estimated Cost:** \$300,000

**Begin Year:** 2017

**Target Completion Year:** 2017

**Right of Way:** Acquired

**Changes from previous:**

**Description:** The project will construct a pedestrian signal on SR 528 between Alder and Quinn Avenue.

**Location:**

**Environment:**

**Challenges:**

**Justification:**

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Grant Award	\$0	\$240,000	\$0	\$0	\$0	\$0	\$0	\$0	\$240,000
	\$25,000	\$35,000	\$0	\$0	\$0	\$0	\$0	\$0	\$60,000
<b>Total:</b>	<b>\$25,000</b>	<b>\$275,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$300,000</b>

**Community Development Block Grant**

<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Design/Study	\$25,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$25,000
Construction	\$0	\$275,000	\$0	\$0	\$0	\$0	\$0	\$0	\$275,000
<b>Total:</b>	<b>\$25,000</b>	<b>\$275,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$300,000</b>



CFP - Project Descriptions

**Transportation**

*Project Name:* 23rd and 169th Extension

*Manager:* Jeff Laycock

*Project Number:* R1704

*Budget Code:* 30500030.563000

*Total Estimated Cost:* \$2,525,000

*Begin Year:* 2017

*Target Completion Year:* 2018

*Right of Way:* Need to Acquire *Changes from previous:*

*Description:* This project will provide a new roadway extension connecting from 27th Ave NE to 172nd St NE, providing an alternative access to the Lakewood commercial

*Location:*

*Environment:*

*Challenges:*

*Justification:*

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
305 - GMA Streets	\$0	\$1,025,000	\$1,500,000	\$0	\$0	\$0	\$0	\$0	\$2,525,000
<b>Total:</b>	\$0	\$1,025,000	\$1,500,000	\$0	\$0	\$0	\$0	\$0	\$2,525,000
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Other	\$0	\$1,025,000	\$1,500,000	\$0	\$0	\$0	\$0	\$0	\$2,525,000
<b>Total:</b>	\$0	\$1,025,000	\$1,500,000	\$0	\$0	\$0	\$0	\$0	\$2,525,000

Design, Right-of-way and Construction

**Policy Decisions:**

Increases infrastructure capacity to meet future growth needs.

Increases or generates additional revenue due to the efficiency of operation and maintenance.

Score: 2

## CFP - Project Descriptions

## Transportation

Project Name: 80th St NE Non-Motorized

Manager: Jeff Laycock

Project Number: R1801

Budget Code: 30500030.563000

Total Estimated Cost: \$791,561

Begin Year: 2017

Target Completion Year: 2020

Right of Way: Need to Acquire Changes from previous:

Description: Design and construct curb/gutter/sidewalk and drainage along the south side of 80th St. NE

Location: 80th St. NE between 47th Ave. and 51st Ave

Environment: None

Challenges:

Justification: Needed improvement due to existing pedestrian volumes

<b>Funds:</b>	Prior	2017	2018	2019	2020	2021	2022	Beyond	Totals
Grant Award	\$0	\$0	\$76,341	\$134,373	\$0	\$0	\$0	\$0	\$210,714
Other (see notes)	\$0	\$0	\$73,659	\$30,608	\$476,580	\$0	\$0	\$0	\$580,847
	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total:</b>	\$0	\$0	\$150,000	\$164,981	\$476,580	\$0	\$0	\$0	\$791,561

CMAQ grant for design and right-of-way. Remaining project funded by Transportation Benefit District

<b>Costs:</b>	Prior	2017	2018	2019	2020	2021	2022	Beyond	Totals
Design/Study	\$0	\$0	\$75,000	\$0	\$0	\$0	\$0	\$0	\$75,000
Land & ROW	\$0	\$0	\$75,000	\$164,981	\$0	\$0	\$0	\$0	\$239,981
Construction	\$0	\$0	\$0	\$0	\$476,580	\$0	\$0	\$0	\$476,580
<b>Total:</b>	\$0	\$0	\$150,000	\$164,981	\$476,580	\$0	\$0	\$0	\$791,561

**Policy Decisions:**

Maintains or Improves Level of Service standards.

Score: 1

## CFP - Project Descriptions

## Transportation

**Project Name:** Citywide Intersection Improvements Project

**Manager:** Jesse Hannahs

**Project Number:** R1503

**Budget Code:** 30500030.563000

**Total Estimated Cost:** \$500,000

**Begin Year:** 2017

**Target Completion Year:** 2018

**Right of Way:**

**Changes from previous:**

**Description:** The project will improve traffic signal operations at seven intersections, increase visibility of traffic signal heads with the installation of reflective signal head backplates at two intersections and upgrade railroad/traffic signal interconnect equipment, circuitry and operations at four intersections. Signal operations will be improved with the installation of flashing yellow arrow (FYA) left turn signal displays at six intersections and installation of advanced vehicle detection at one State Avenue intersection.

**Location:** Various Locations

**Environment:**

**Challenges:**

**Justification:**

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Grant Award	\$0	\$422,000	\$0	\$0	\$0	\$0	\$0	\$0	\$422,000
305 - GMA Streets	\$0	\$78,000	\$0	\$0	\$0	\$0	\$0	\$0	\$78,000
<b>Total:</b>	<b>\$0</b>	<b>\$500,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$500,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Design/Study	\$0	\$50,000	\$0	\$0	\$0	\$0	\$0	\$0	\$50,000
Construction	\$0	\$450,000	\$0	\$0	\$0	\$0	\$0	\$0	\$450,000
<b>Total:</b>	<b>\$0</b>	<b>\$500,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$500,000</b>

CFP - Project Descriptions

**Transportation**

**Project Name:** State Avenue Improvement (100th St NE – 116th St NE.

**Manager:** Jeff Laycock

**Project Number:** R1601

**Budget Code:** 30500030.563000

**Total Estimated Cost:** \$12,000,000

**Begin Year:** 2017

**Target Completion Year:** 2022

**Right of Way:** Need to Acquire **Changes from previous:**

**Description:** Widen State Avenue from a 2-lane to a 5-lane section with curb, gutter and sidewalk. The proposal also includes construction of a bridge, bank stabilization or culvert improvements over Quilceda Creek. Project will include replacing existing AC water main. City is applying for outside funding.

**Location:** State Avenue from 100th Street NE to 116th Street NE

**Environment:** Crossing at Quil Ceda Creek will require permits through Ecology, Corp, and WDFW.

**Challenges:** Quil Ceda crossing, right-of-way and BNSF permits. Utility relocation.

**Justification:** Improve safety and reduce traffic congestion.

Improve safety, reduce traffic congestion and provide for current and future economic and commercial/light industrial development.

Identify improvements and strategies needed to carry out the land use vision and meet the Level-of-Service requirements for transportation.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Funding Needed	\$0	\$0	\$750,000	\$1,500,000	\$2,250,000	\$4,500,000	\$3,000,000	\$0	\$12,000,000
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$750,000</b>	<b>\$1,500,000</b>	<b>\$2,250,000</b>	<b>\$4,500,000</b>	<b>\$3,000,000</b>	<b>\$0</b>	<b>\$12,000,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Design/Study	\$0	\$0	\$750,000	\$0	\$0	\$0	\$0	\$0	\$750,000
Land & ROW	\$0	\$0	\$0	\$1,500,000	\$250,000	\$0	\$0	\$0	\$1,750,000
Construction	\$0	\$0	\$0	\$0	\$2,000,000	\$4,500,000	\$3,000,000	\$0	\$9,500,000
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$750,000</b>	<b>\$1,500,000</b>	<b>\$2,250,000</b>	<b>\$4,500,000</b>	<b>\$3,000,000</b>	<b>\$0</b>	<b>\$12,000,000</b>

**Policy Decisions:**

Exceeds all environmental compliance requirements.

Increases infrastructure capacity to alleviate existing service deficiencies.

Exceeds all environmental compliance requirements.

Score: 4

**Transportation**

**Project Name:** Marshall Elementary Safe Routes to School Project

**Manager:** Kyle Woods

**Project Number:** M1506

**Budget Code:** 30500030.56300

**Total Estimated Cost:** \$650,000

**Begin Year:** 2017

**Target Completion Year:** 2017

**Right of Way:** Need to Acquire **Changes from previous:**

**Description:** This project will construct sidewalk improvements on 116th St NE near Marshall Elementary School.

**Location:**

**Environment:**

**Challenges:**

**Justification:**

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Grant Award	\$5,000	\$225,000	\$0	\$0	\$0	\$0	\$0	\$0	\$230,000
305 - GMA Streets	\$45,000	\$375,000	\$0	\$0	\$0	\$0	\$0	\$0	\$420,000
<b>Total:</b>	<b>\$50,000</b>	<b>\$600,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$650,000</b>

**WSDOT Safe Routes to School Grant, Transportation Benefit District**

<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Design/Study	\$15,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$15,000
Land & ROW	\$35,000	\$50,000	\$0	\$0	\$0	\$0	\$0	\$0	\$85,000
Construction	\$0	\$550,000	\$0	\$0	\$0	\$0	\$0	\$0	\$550,000
<b>Total:</b>	<b>\$50,000</b>	<b>\$600,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$650,000</b>

CFP - Project Descriptions

**Transportation**

*Project Name:* 156th, 160th, 51st Interim Improvement

*Manager:* Jeff Laycock

*Project Number:* R1703

*Budget Code:* 30500030.563000

*Total Estimated Cost:* \$22,000,000

*Begin Year:* 2017

*Target Completion Year:* 2018

*Right of Way:* Need to Acquire

*Changes from previous:*

*Description:* This project will construct an interim improvement to support economic development within the MIC.

*Location:*

*Environment:*

*Challenges:*

*Justification:*

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
305 - GMA Streets	\$0	\$2,000,000	\$10,000,000	\$0	\$0	\$0	\$0	\$0	\$12,000,000
402 - Utility Construction	\$0	\$0	\$10,000,000	\$0	\$0	\$0	\$0	\$0	\$10,000,000
<b>Total:</b>	<b>\$0</b>	<b>\$2,000,000</b>	<b>\$20,000,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$22,000,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Other	\$0	\$2,000,000	\$20,000,000	\$0	\$0	\$0	\$0	\$0	\$22,000,000
<b>Total:</b>	<b>\$0</b>	<b>\$2,000,000</b>	<b>\$20,000,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$22,000,000</b>

Design, Right-of-Way, Construction

**Policy Decisions:**

Increases infrastructure capacity to meet future growth needs.

Attracts new businesses or helps retain existing businesses.

Score: 2

CFP - Project Descriptions

**Water**

*Project Name:* Water Main Renewal & Replacements

*Manager:*

*Project Number:* WR&R

*Budget Code:* 40220594.563000

*Total Estimated Cost:* \$1,075,000

*Begin Year:* 2017

*Target Completion Year:* 2021

*Right of Way:*

*Changes from previous:*

*Description:* Routine annual replacement of undersized or aging pipelines, primarily aimed at the replacement of AC and CI pipe within the system. This is an on-going annual effort to identify and replace or upgrade aging and/or inadequate water system components.

*Location:* Various locations throughout the city.

*Environment:*

*Challenges:*

*Justification:* Replacement of undersized or aging pipelines with ductile iron. The condition of infrastructure should be assessed at appropriate intervals, and be rehabilitated, repaired, or maintained as necessary.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
402 - Utility Construction	\$200,000	\$50,000	\$0	\$165,000	\$165,000	\$165,000	\$165,000	\$165,000	\$1,075,000
<b>Total:</b>	<b>\$200,000</b>	<b>\$50,000</b>	<b>\$0</b>	<b>\$165,000</b>	<b>\$165,000</b>	<b>\$165,000</b>	<b>\$165,000</b>	<b>\$165,000</b>	<b>\$1,075,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Plans & Specifications	\$0	\$0	\$0	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$75,000
Construction	\$200,000	\$50,000	\$0	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$1,000,000
<b>Total:</b>	<b>\$200,000</b>	<b>\$50,000</b>	<b>\$0</b>	<b>\$165,000</b>	<b>\$165,000</b>	<b>\$165,000</b>	<b>\$165,000</b>	<b>\$165,000</b>	<b>\$1,075,000</b>

**Policy Decisions:**

Maintains or Improves Level of Service standards.

Preserves or extends the life of an existing asset.

Score: 2

**Water**

*Project Name:* Fire Hydrant Replacement Program

*Manager:* Karen Latimer

*Project Number:* W1403

*Budget Code:* 40220594.563000

*Total Estimated Cost:* \$600,000

*Begin Year:* 2017

*Target Completion Year:* 2023

*Right of Way:*

*Changes from previous:*

*Description:* This project will replace approximately 300 two port fire hydrants over a 10 year period within the water system with three port hydrants that meet current standards for adaptability to Storz fittings for quick access by the Fire Department.

The three port fire hydrants also provide increased fire flows.

*Location:* Within the City's Distribution System

*Environment:*

*Challenges:*

*Justification:* Replacement of these hydrants will provide increased fire flow and quicker accessibility for the fire department.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
402 - Utility Construction	\$75,000	\$75,000	\$75,000	\$75,000	\$75,000	\$75,000	\$75,000	\$75,000	\$600,000
<b>Total:</b>	<b>\$75,000</b>	<b>\$75,000</b>	<b>\$75,000</b>	<b>\$75,000</b>	<b>\$75,000</b>	<b>\$75,000</b>	<b>\$75,000</b>	<b>\$75,000</b>	<b>\$600,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$75,000	\$75,000	\$75,000	\$75,000	\$75,000	\$75,000	\$75,000	\$75,000	\$600,000
<b>Total:</b>	<b>\$75,000</b>	<b>\$75,000</b>	<b>\$75,000</b>	<b>\$75,000</b>	<b>\$75,000</b>	<b>\$75,000</b>	<b>\$75,000</b>	<b>\$75,000</b>	<b>\$600,000</b>

**Policy Decisions:**

Maintains or Improves Level of Service standards.

Eliminates a risk or hazard to public health or safety.

*Score:* 2



CFP - Project Descriptions

**Water**

*Project Name:* Edward Springs Water Right Utilization

*Manager:*

*Project Number:* W1504

*Budget Code:* 40220594.563000

*Total Estimated Cost:* \$500,000

*Begin Year:* 2017

*Target Completion Year:* 2017

*Right of Way:*

*Changes from previous:*

*Description:* This project will be to perfect and utilize all water rights within the Edward Springs Watershed, as this source provides the least expensive water to our city customers.

*Location:*

*Environment:*

*Challenges:*

*Justification:* Utilizing the most water possible from this source makes good financial sense.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
402 - Utility Construction	\$0	\$500,000	\$0	\$0	\$0	\$0	\$0	\$0	\$500,000
<b>Total:</b>	\$0	\$500,000	\$0	\$0	\$0	\$0	\$0	\$0	\$500,000
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$0	\$500,000	\$0	\$0	\$0	\$0	\$0	\$0	\$500,000
<b>Total:</b>	\$0	\$500,000	\$0	\$0	\$0	\$0	\$0	\$0	\$500,000

**Policy Decisions:**

- Maintains or Improves Level of Service standards.
  - Preserves or extends the life of an existing asset.
  - Eliminates a risk or hazard to public health or safety.
- Score: 3

CFP - Project Descriptions

**Water**

*Project Name:* Edward Springs Reservoir Floating Cover Replacement

*Manager:* Karen Latimer

*Project Number:*                      *Budget Code:*

*Total Estimated Cost:* \$550,000

*Begin Year:* 2017              *Target Completion Year:* 2022              *Right of Way:*

*Changes from previous:*

*Description:* Replacement of the Edward Springs Reservoir floating cover.

*Location:* 614 Lakewood Road, Arlington, WA 98223

*Environment:*

*Challenges:*

*Justification:*

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
402 - Utility Construction	\$0	\$0	\$50,000	\$500,000	\$0	\$0	\$0	\$0	\$550,000
<b>Total:</b>	\$0	\$0	\$50,000	\$500,000	\$0	\$0	\$0	\$0	\$550,000
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Design/Study	\$0	\$0	\$50,000	\$0	\$0	\$0	\$0	\$0	\$50,000
Construction	\$0	\$0	\$0	\$500,000	\$0	\$0	\$0	\$0	\$500,000
<b>Total:</b>	\$0	\$0	\$50,000	\$500,000	\$0	\$0	\$0	\$0	\$550,000

CFP - Project Descriptions

**Water**

*Project Name:* Neptune AMI System Full Implementation

*Manager:* Karen Latimer

*Project Number:*

*Budget Code:*

*Total Estimated Cost:* \$5,512,550

*Begin Year:* 2017

*Target Completion Year:* 2021

*Right of Way:*

*Changes from previous:*

*Description:* Full implementation of Neptune AMI system in the PUD water system acquisition area and Aclara AMR service area. Replace aging Aclara MTUs and Elster water meters with Neptune AMI radios and meters over a five-year period. Aclara MTUs are reaching the end of their reliable life and need to be replaced. Elster positive displacement water meters are no longer manufactured or supported and need to be replaced. Phase 1 (2017) includes installation of fixed gateways, software upgrade, hardware purchase, replacement of 4,000 Elster meters, and installation of radios on 38 Sensus meters. Subsequent years (2018-2021) include replacement of 2,230 meters and 13,119 registers.

*Location:*

*Environment:*

*Challenges:*

*Justification:*

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
402 - Utility Construction	\$0	\$1,803,930	\$1,018,318	\$910,876	\$950,479	\$828,947	\$0	\$0	\$5,512,550
<b>Total:</b>	\$0	\$1,803,930	\$1,018,318	\$910,876	\$950,479	\$828,947	\$0	\$0	\$5,512,550
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$0	\$1,803,930	\$1,018,318	\$910,876	\$950,479	\$828,947	\$0	\$0	\$5,512,550
<b>Total:</b>	\$0	\$1,803,930	\$1,018,318	\$910,876	\$950,479	\$828,947	\$0	\$0	\$5,512,550

CFP - Project Descriptions

**Water**

*Project Name:* Highway 9 Reservoir

*Manager:* None

*Project Number:*

*Budget Code:* 40220594.563000

*Total Estimated Cost:* \$2,350,000

*Begin Year:* 2017

*Target Completion Year:* 2021

*Right of Way:*

*Changes from previous:*

*Description:* This project would include construction of a second Highway 9 Reservoir (1.8 MG) to meet increasing storage volume requirements and provide redundancy in the South 510 zone.

*Location:* Highway 9 Reservoir Site.

*Environment:*

*Challenges:*

*Justification:* Increase volume and provide redundancy in the South 510 zone.  
 Provide urban level facilities and services only in Urban Growth Areas.  
 Provide urban level facilities and services in Urban Growth Areas to avoid health hazards, enhance the quality of life, and maintain viable, efficient, and cost-effective delivery.  
 Provide efficient construction of public services and facilities that are consistent with the comprehensive land use plan and available to serve the community concurrent with increased demand generated by new construction.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
402 - Utility Construction	\$0	\$0	\$0	\$0	\$0	\$100,000	\$0	\$0	\$100,000
Funding Needed	\$0	\$0	\$0	\$0	\$0	\$0	\$2,250,000	\$0	\$2,250,000
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$100,000</b>	<b>\$2,250,000</b>	<b>\$0</b>	<b>\$2,350,000</b>

<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Design/Study	\$0	\$0	\$0	\$0	\$0	\$100,000	\$0	\$0	\$100,000
Construction	\$0	\$0	\$0	\$0	\$0	\$0	\$2,250,000	\$0	\$2,250,000
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$100,000</b>	<b>\$2,250,000</b>	<b>\$0</b>	<b>\$2,350,000</b>

**Policy Decisions:**

- Maintains or Improves Level of Service standards.
- Increases infrastructure capacity to meet future growth needs.
- Affects all customers within a recognized neighborhood or area.

Score: 3

CFP - Project Descriptions

**Water**

**Project Name:** Sunnyside 510 Zone BPS and WM

**Manager:**

**Project Number:** W1801

**Budget Code:** 40220594.563000

**Total Estimated Cost:** \$3,000,000

**Begin Year:** 2017

**Target Completion Year:** 2019

**Right of Way:**

**Changes from previous:**

**Description:** This project would include installation of a new pump station to provide source capacity to the area to be served by the new Soper Hill (Whiskey Ridge) Reservoir.

**Location:** Exact location unknown at this time.

**Environment:**

**Challenges:**

**Justification:** This pump station would replace the existing Cedarcrest Pump Station, which is currently used to fill the Highway 9 Reservoir and serve customers in the South 510 zone. Installation of this pump station will allow the city to pump from the JOA transmission line to the South 510 zone, which will save the city money in pumping costs.

Provide urban level facilities and services only in Urban Growth Areas.

Provide urban level facilities and services in Urban Growth Areas to avoid health hazards, enhance the quality of life, and maintain viable, efficient, and cost-effective delivery.

Provide efficient construction of public services and facilities that are consistent with the comprehensive land use plan and available to serve the community concurrent with increased demand generated by new construction.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Funding Needed	\$0	\$0	\$0	\$1,500,000	\$1,500,000	\$0	\$0	\$0	\$3,000,000
<b>Total:</b>	\$0	\$0	\$0	\$1,500,000	\$1,500,000	\$0	\$0	\$0	\$3,000,000
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$0	\$0	\$0	\$1,500,000	\$1,500,000	\$0	\$0	\$0	\$3,000,000
<b>Total:</b>	\$0	\$0	\$0	\$1,500,000	\$1,500,000	\$0	\$0	\$0	\$3,000,000

**Policy Decisions:**

Maintains or Improves Level of Service standards.

Affects all customers within a recognized neighborhood or area.

Increases infrastructure capacity to meet future growth needs.

**Score:** 3

**Water**

*Project Name:* 45 Road Water Main

*Manager:* None

*Project Number:* W1701

*Budget Code:*

*Total Estimated Cost:* \$4,500,000

*Begin Year:* 2017

*Target Completion Year:* 2020

*Right of Way:*

*Changes from previous:*

*Description:* Replacement of a 12 inch AC distribution pipe with 10,053 feet of 18 inch ductile iron pipe. The pipe starts on 140th Place NE (beginning 300 feet west of I-5) and goes west to where it turns north on 23rd Avenue NE, then turns northwest and follows the 45 Road to the intersection of 45 Road and 11th Avenue.

*Location:* Within existing right of ways on 140th Place NE, 23rd Avenue NE, and the 45 Road.

*Environment:*

*Challenges:* Coordination with Snohomish County and their Roadway Improvement

*Justification:* Completion of Asbestos Cement (AC) pipe replacement between Edward Springs and State Avenue. The condition of infrastructure should be assessed at appropriate intervals, and be rehabilitated, repaired, or maintained as necessary.

Provide urban level facilities and services only in Urban Growth Areas.

Provide urban level facilities and services in Urban Growth Areas to avoid health hazards, enhance the quality of life, and maintain viable, efficient, and cost-effective delivery.

Provide efficient construction of public services and facilities that are consistent with the comprehensive land use plan and available to serve the community concurrent with increased demand generated by new construction.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Funding Needed	\$0	\$0	\$0	\$4,500,000	\$0	\$0	\$0	\$0	\$4,500,000
<b>Total:</b>	\$0	\$0	\$0	\$4,500,000	\$0	\$0	\$0	\$0	\$4,500,000
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$0	\$0	\$0	\$4,500,000	\$0	\$0	\$0	\$0	\$4,500,000
<b>Total:</b>	\$0	\$0	\$0	\$4,500,000	\$0	\$0	\$0	\$0	\$4,500,000

Design is complete from 2007. PS&E from Murray Smith and Associates

**Policy Decisions:**

Maintains or Improves Level of Service standards.

Increases infrastructure capacity to meet future growth needs.

*Score:* 2

CFP - Project Descriptions

**Water**

**Project Name:** Water Main Oversizing

**Manager:**

**Project Number:** W0000

**Budget Code:** 40220594.563000

**Total Estimated Cost:** \$280,000

**Begin Year:** 2017

**Target Completion Year:** 2021

**Right of Way:**

**Changes from previous:**

**Description:** In order to account for future growth in system demands, Marysville requires some developers to install pipes larger than necessary to serve solely their developments. This CIP item reflects an annual budget amount that covers the additional costs incurred on such projects.

**Location:** Various locations throughout the city.

**Environment:**

**Challenges:**

**Justification:** To provide adequate water supply for future system demands.  
 Provide urban level facilities and services only in Urban Growth Areas.  
 Provide urban level facilities and services in Urban Growth Areas to avoid health hazards, enhance the quality of life, and maintain viable, efficient, and cost-effective delivery.  
 Provide efficient construction of public services and facilities that are consistent with the comprehensive land use plan and available to serve the community concurrent with increased demand generated by new construction.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
402 - Utility Construction	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$280,000
<b>Total:</b>	<b>\$35,000</b>	<b>\$35,000</b>	<b>\$35,000</b>	<b>\$35,000</b>	<b>\$35,000</b>	<b>\$35,000</b>	<b>\$35,000</b>	<b>\$35,000</b>	<b>\$280,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Design/Study	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$280,000
<b>Total:</b>	<b>\$35,000</b>	<b>\$35,000</b>	<b>\$35,000</b>	<b>\$35,000</b>	<b>\$35,000</b>	<b>\$35,000</b>	<b>\$35,000</b>	<b>\$35,000</b>	<b>\$280,000</b>

**Policy Decisions:**

Maintains or Improves Level of Service standards.  
 Increases infrastructure capacity to meet future growth needs.

**Score:** 2

CFP - Project Descriptions

**Water**

*Project Name:* 560 Zone Booster Pump Station

*Manager:* Ryan Morrison

*Project Number:* W1603

*Budget Code:*

*Total Estimated Cost:* \$750,000

*Begin Year:* 2017

*Target Completion Year:* 2017

*Right of Way:*

*Changes from previous:*

*Description:* This project will construct a new closed zone booster pump station within the 560 pressure zone to support residential development in the Whiskey Ridge neighborhood.

*Location:*

*Environment:*

*Challenges:* coordination with developer and project sequencing

*Justification:*

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
402 - Utility Construction	\$100,000	\$650,000	\$0	\$0	\$0	\$0	\$0	\$0	\$750,000
<b>Total:</b>	<b>\$100,000</b>	<b>\$650,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$750,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Other	\$100,000	\$650,000	\$0	\$0	\$0	\$0	\$0	\$0	\$750,000
<b>Total:</b>	<b>\$100,000</b>	<b>\$650,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$750,000</b>

Design and Construction



CFP - Project Descriptions

**Water**

*Project Name:* Reservoir Cathodic Protection

*Manager:* Karen Latimer

*Project Number:* W1707

*Budget Code:*

*Total Estimated Cost:* \$250,000

*Begin Year:* 2017

*Target Completion Year:* 2017

*Right of Way:*

*Changes from previous:*

*Description:* Design and construction of cathodic protection systems at the Wade Road and Sunnyside water reservoirs and Stillaguamish water treatment plant clearwell.

*Location:*

*Environment:*

*Challenges:*

*Justification:*

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
402 - Utility Construction	\$0	\$250,000	\$0	\$0	\$0	\$0	\$0	\$0	\$250,000
<b>Total:</b>	\$0	\$250,000	\$0	\$0	\$0	\$0	\$0	\$0	\$250,000
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Construction	\$0	\$250,000	\$0	\$0	\$0	\$0	\$0	\$0	\$250,000
<b>Total:</b>	\$0	\$250,000	\$0	\$0	\$0	\$0	\$0	\$0	\$250,000

CFP - Project Descriptions

**Water**

*Project Name:* Cedarcrest Water Booster Pump Station Generator

*Manager:* Ryan Morrison

*Project Number:* W1602

*Budget Code:* 40230594.563000

*Total Estimated Cost:* \$240,000

*Begin Year:* 2017

*Target Completion Year:* 2017

*Right of Way:*

*Changes from previous:*

*Description:* Design, engineering, bidding support, construction oversight services, and construction of a permanent fixed generator at the Cedarcrest Reservoir site. The booster pump station pulls water from the Cedarcrest Reservoir and pumps it to the Highway 9 reservoir; this is the sole source of supply to the 510 pressure zone.

*Location:* Intersection of 73rd Street and Grove Street

*Environment:*

*Challenges:*

*Justification:*

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
402 - Utility Construction	\$65,000	\$175,000	\$0	\$0	\$0	\$0	\$0	\$0	\$240,000
<b>Total:</b>	<b>\$65,000</b>	<b>\$175,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$240,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Design/Study	\$65,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$65,000
Construction	\$0	\$175,000	\$0	\$0	\$0	\$0	\$0	\$0	\$175,000
<b>Total:</b>	<b>\$65,000</b>	<b>\$175,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$240,000</b>

**Water**

*Project Name:* Water Supply Operational Strategy

*Manager:* Karen Latimer

*Project Number:* W1605

*Budget Code:* 40220594.563000

*Total Estimated Cost:* \$260,000

*Begin Year:* 2017

*Target Completion Year:* 2017

*Right of Way:*

*Changes from previous:*

*Description:* Technical analysis of the drinking water system to identify opportunities to optimize efficiency, reduce operating costs, improve water quality, correct system deficiencies, provide robustness and redundancy throughout the drinking water system, and prepare for future growth. The resulting document will identify water operational strategies for current system configuration and future short- and long-term growth configurations.

*Location:*

*Environment:*

*Challenges:*

*Justification:*

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
402 - Utility Construction	\$30,000	\$230,000	\$0	\$0	\$0	\$0	\$0	\$0	\$260,000
<b>Total:</b>	<b>\$30,000</b>	<b>\$230,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$260,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Design/Study	\$30,000	\$230,000	\$0	\$0	\$0	\$0	\$0	\$0	\$260,000
<b>Total:</b>	<b>\$30,000</b>	<b>\$230,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$260,000</b>

CFP - Project Descriptions

**Water**

*Project Name:* 83rd Ave NE Water Main

*Manager:* Adam Benton

*Project Number:* W1604

*Budget Code:*

*Total Estimated Cost:* \$1,000,000

*Begin Year:* 2017

*Target Completion Year:* 2017

*Right of Way:*

*Changes from previous:*

*Description:* This project will replace and upsize the existing 8" water main on 83rd Ave NE from Sunnyside School Rd to Soper Hill Rd with a new 12" water main. The project will improve fire flow in the area and is needed to support development.

*Location:*

*Environment:*

*Challenges:*

*Justification:*

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
402 - Utility Construction	\$50,000	\$950,000	\$0	\$0	\$0	\$0	\$0	\$0	\$1,000,000
<b>Total:</b>	<b>\$50,000</b>	<b>\$950,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,000,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Other	\$50,000	\$950,000	\$0	\$0	\$0	\$0	\$0	\$0	\$1,000,000
<b>Total:</b>	<b>\$50,000</b>	<b>\$950,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,000,000</b>

Design and Construction

**Policy Decisions:**

Increases infrastructure capacity to meet future growth needs.

Score: 1

CFP - Project Descriptions

**Water**

**Project Name:** Highway 9 Well Treatment System

**Manager:** None

**Project Number:**

**Budget Code:** 40220594.563000

**Total Estimated Cost:** \$3,750,000

**Begin Year:** 2017

**Target Completion Year:** 2020

**Right of Way:**

**Changes from previous:**

**Description:** This project will be to design and build a treatment system for the current Highway 9 well source, allowing us to use more of the city's existing water sources to provide water to our customers.

**Location:** At the Existing Highway 9 Well and Reservoir Site.

**Environment:**

**Challenges:**

**Justification:** This project will provide long term sustainability for our water needs moving into the future.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
402 - Utility Construction	\$0	\$0	\$0	\$750,000	\$3,000,000	\$0	\$0	\$0	\$3,750,000
<b>Total:</b>	\$0	\$0	\$0	\$750,000	\$3,000,000	\$0	\$0	\$0	\$3,750,000
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Design/Study	\$0	\$0	\$0	\$750,000	\$0	\$0	\$0	\$0	\$750,000
Construction	\$0	\$0	\$0	\$0	\$3,000,000	\$0	\$0	\$0	\$3,000,000
<b>Total:</b>	\$0	\$0	\$0	\$750,000	\$3,000,000	\$0	\$0	\$0	\$3,750,000

**Policy Decisions:**

Maintains or Improves Level of Service standards.

Increases infrastructure capacity to alleviate existing service deficiencies.

Affects all customers within the City by changing the way the City delivers services or does business.

**Score:** 3

**Water**

*Project Name:* Sunnyside Well Treatment Project

*Manager:* Jay Cooke

*Project Number:* W1302

*Budget Code:* 40220594.563000

*Total Estimated Cost:* \$6,340,000

*Begin Year:* 2017

*Target Completion Year:* 2017

*Right of Way:*

*Changes from previous:*

*Description:* The City of Marysville has been granted water rights to pump as much as 1,000 gallons per minute from each of two municipal water wells on its Sunnyside Reservoir property. This project will construct a Water Treatment Plant which will treat and filter water from these wells, thereby improving its quality to the point where it will be suitable for use by Marysville's customers. The project will also reduce the City's reliance on costlier water which it currently purchases from the City of Everett.

*Location:* Sunnyside Well

*Environment:* The City intends to coordinate closely with the Department of Health in order to ensure that the project ultimately meets with its approval.

*Challenges:*

*Justification:*

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
402 - Utility Construction	\$3,740,000	\$2,600,000	\$0	\$0	\$0	\$0	\$0	\$0	\$6,340,000
<b>Total:</b>	<b>\$3,740,000</b>	<b>\$2,600,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$6,340,000</b>
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Design/Study	\$740,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$740,000
Construction	\$3,000,000	\$2,600,000	\$0	\$0	\$0	\$0	\$0	\$0	\$5,600,000
<b>Total:</b>	<b>\$3,740,000</b>	<b>\$2,600,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$6,340,000</b>

CFP - Project Descriptions

**Water**

**Project Name:** State Avenue (102nd to 116th) Water Main Replacement

**Manager:** None

**Project Number:**

**Budget Code:**

**Total Estimated Cost:** \$2,300,000

**Begin Year:** 2017

**Target Completion Year:** 2020

**Right of Way:**

**Changes from previous:**

**Description:** Replacement of existing 12 inch Asbestos Cement (AC) distribution pipe with 4,578 feet of 18 inch Ductile Iron Pipe along State Avenue from 102nd Street NE to 116th Street NE. Project is dependent on funding of the roadway widening project.

**Location:** In the existing right of way on State Avenue between 102nd Street NE and 116th Street NE.

**Environment:**

**Challenges:**

**Justification:** Increase capacity and update to Ductile Iron pipe.

The condition of infrastructure should be assessed at appropriate intervals, and be rehabilitated, repaired, or maintained as necessary.

<b>Funds:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
402 - Utility Construction	\$0	\$0	\$0	\$2,300,000	\$0	\$0	\$0	\$0	\$2,300,000
<b>Total:</b>	\$0	\$0	\$0	\$2,300,000	\$0	\$0	\$0	\$0	\$2,300,000
<b>Costs:</b>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
Other	\$0	\$0	\$0	\$2,300,000	\$0	\$0	\$0	\$0	\$2,300,000
<b>Total:</b>	\$0	\$0	\$0	\$2,300,000	\$0	\$0	\$0	\$0	\$2,300,000

Design and Construction

**Policy Decisions:**

Maintains or Improves Level of Service standards.

Preserves or extends the life of an existing asset.

Score: 2



# Capital Facilities Plan - Fund Summary

Friday, February 24, 2017

## Facilities

Fund	Prior	2017	2018	2019	2020	2021	2022	Beyond	Totals
001 - General	\$50,000	\$200,000	\$0	\$0	\$0	\$0	\$0	\$0	\$250,000
402 - Utility Construction	\$53,712	\$0	\$0	\$0	\$0	\$0	\$0	\$7,700,000	\$7,753,712
901 - General Long Term Debt	\$0	\$0	\$5,000,000	\$15,000,000	\$15,000,000	\$0	\$0	\$0	\$35,000,000
<b>Total:</b>	<b>\$103,712</b>	<b>\$200,000</b>	<b>\$5,000,000</b>	<b>\$15,000,000</b>	<b>\$15,000,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$7,700,000</b>	<b>\$43,003,712</b>

## Parks

Fund	Prior	2017	2018	2019	2020	2021	2022	Beyond	Totals
	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
001 - General	\$0	\$254,000	\$2,739,000	\$1,154,000	\$203,000	\$0	\$0	\$0	\$4,350,000
105 - Hotel Tax Fund	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
109 - CDBG Program	\$4,000	\$71,500	\$67,000	\$30,000	\$0	\$0	\$0	\$0	\$172,500
310 - GMA Parks	\$0	\$0	\$24,000	\$1,348,000	\$155,000	\$200,000	\$0	\$0	\$1,727,000
402 - Utility Construction	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
420 - Golf Course	\$0	\$0	\$170,000	\$0	\$0	\$0	\$0	\$0	\$170,000
Operating									
901 - General Long Term Debt	\$0	\$0	\$0	\$4,000,000	\$5,000,000	\$1,560,000	\$0	\$0	\$10,560,000
Funding Needed	\$0	\$0	\$0	\$0	\$8,100,000	\$750,000	\$0	\$0	\$8,850,000
Grant Award	\$0	\$0	\$2,500,000	\$1,200,000	\$255,000	\$1,750,000	\$0	\$0	\$5,705,000
<b>Total:</b>	<b>\$4,000</b>	<b>\$325,500</b>	<b>\$5,500,000</b>	<b>\$7,732,000</b>	<b>\$13,713,000</b>	<b>\$4,260,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$31,534,500</b>

## Sewer

Fund	Prior	2017	2018	2019	2020	2021	2022	Beyond	Totals
401 - Water/Sewer Operating	\$0	\$285,000	\$670,000	\$0	\$0	\$0	\$0	\$0	\$955,000
402 - Utility Construction	\$595,000	\$1,505,000	\$4,780,000	\$330,000	\$330,000	\$330,000	\$330,000	\$330,000	\$8,530,000
<b>Total:</b>	<b>\$595,000</b>	<b>\$1,790,000</b>	<b>\$5,450,000</b>	<b>\$330,000</b>	<b>\$330,000</b>	<b>\$330,000</b>	<b>\$330,000</b>	<b>\$330,000</b>	<b>\$9,485,000</b>

## Surface Water

Fund	Prior	2017	2018	2019	2020	2021	2022	Beyond	Totals
402 - Utility Construction	\$155,000	\$7,597,250	\$0	\$0	\$0	\$5,054,000	\$0	\$0	\$12,806,250
Funding Needed	\$0	\$0	\$0	\$4,901,000	\$8,517,000	\$0	\$0	\$19,042,000	\$32,460,000
Grant Award	\$585,500	\$1,296,250	\$0	\$0	\$0	\$0	\$0	\$0	\$1,881,750
<b>Total:</b>	<b>\$740,500</b>	<b>\$8,893,500</b>	<b>\$0</b>	<b>\$4,901,000</b>	<b>\$8,517,000</b>	<b>\$5,054,000</b>	<b>\$0</b>	<b>\$19,042,000</b>	<b>\$47,148,000</b>

## Transportation

Fund	Prior	2017	2018	2019	2020	2021	2022	Beyond	Totals
	\$25,000	\$35,000	\$0	\$0	\$0	\$0	\$0	\$0	\$60,000
001 - General	\$2,000,000	\$100,000	\$0	\$0	\$0	\$0	\$0	\$0	\$2,100,000
305 - GMA Streets	\$640,000	\$6,928,000	\$15,550,000	\$7,500,000	\$0	\$0	\$0	\$0	\$30,618,000
402 - Utility Construction	\$0	\$0	\$10,000,000	\$0	\$0	\$0	\$0	\$0	\$10,000,000
Funding Needed	\$0	\$0	\$750,000	\$1,500,000	\$2,250,000	\$4,500,000	\$3,000,000	\$17,540,000	\$29,540,000
Grant Award	\$110,000	\$987,000	\$76,341	\$134,373	\$2,500,000	\$2,500,000	\$0	\$0	\$6,307,714
Other (see notes)	\$220,000	\$900,000	\$2,073,659	\$6,030,608	\$15,476,580	\$15,000,000	\$10,000,000	\$4,300,000	\$54,000,847
<b>Total:</b>	<b>\$2,995,000</b>	<b>\$8,950,000</b>	<b>\$28,450,000</b>	<b>\$15,164,981</b>	<b>\$20,226,580</b>	<b>\$22,000,000</b>	<b>\$13,000,000</b>	<b>\$21,840,000</b>	<b>\$132,626,561</b>

## Water

Fund	Prior	2017	2018	2019	2020	2021	2022	Beyond	Totals
402 - Utility Construction	\$4,295,000	\$7,318,930	\$1,178,318	\$4,735,876	\$4,225,479	\$1,203,947	\$275,000	\$275,000	\$23,507,550
Funding Needed	\$0	\$0	\$0	\$6,000,000	\$1,500,000	\$0	\$2,250,000	\$0	\$9,750,000
<b>Total:</b>	<b>\$4,295,000</b>	<b>\$7,318,930</b>	<b>\$1,178,318</b>	<b>\$10,735,876</b>	<b>\$5,725,479</b>	<b>\$1,203,947</b>	<b>\$2,525,000</b>	<b>\$275,000</b>	<b>\$33,257,550</b>



**All Categories**

<i>Fund</i>	<i>Prior</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>Beyond</i>	<i>Totals</i>
	\$25,000	\$35,000	\$0	\$0	\$0	\$0	\$0	\$0	\$60,000
001 - General	\$2,050,000	\$554,000	\$2,739,000	\$1,154,000	\$203,000	\$0	\$0	\$0	\$6,700,000
105 - Hotel Tax Fund	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
109 - CDBG Program	\$4,000	\$71,500	\$67,000	\$30,000	\$0	\$0	\$0	\$0	\$172,500
305 - GMA Streets	\$640,000	\$6,928,000	\$15,550,000	\$7,500,000	\$0	\$0	\$0	\$0	\$30,618,000
310 - GMA Parks	\$0	\$0	\$24,000	\$1,348,000	\$155,000	\$200,000	\$0	\$0	\$1,727,000
401 - Water/Sewer Operating	\$0	\$285,000	\$670,000	\$0	\$0	\$0	\$0	\$0	\$955,000
402 - Utility Construction	\$5,098,712	\$16,421,180	\$15,958,318	\$5,065,876	\$4,555,479	\$6,587,947	\$605,000	\$8,305,000	\$62,597,512
420 - Golf Course Operating	\$0	\$0	\$170,000	\$0	\$0	\$0	\$0	\$0	\$170,000
901 - General Long Term Debt	\$0	\$0	\$5,000,000	\$19,000,000	\$20,000,000	\$1,560,000	\$0	\$0	\$45,560,000
Funding Needed	\$0	\$0	\$750,000	\$12,401,000	\$20,367,000	\$5,250,000	\$5,250,000	\$36,582,000	\$80,600,000
Grant Award	\$695,500	\$2,283,250	\$2,576,341	\$1,334,373	\$2,755,000	\$4,250,000	\$0	\$0	\$13,894,464
Other (see notes)	\$220,000	\$900,000	\$2,073,659	\$6,030,608	\$15,476,580	\$15,000,000	\$10,000,000	\$4,300,000	\$54,000,847
<b>Total:</b>	<b>\$8,733,212</b>	<b>\$27,477,930</b>	<b>\$45,578,318</b>	<b>\$53,863,857</b>	<b>\$63,512,059</b>	<b>\$32,847,947</b>	<b>\$15,855,000</b>	<b>\$49,187,000</b>	<b>\$297,055,323</b>

# *Index #5*

## CITY OF MARYSVILLE AGENDA BILL

### EXECUTIVE SUMMARY FOR ACTION

**CITY COUNCIL MEETING DATE: March 6, 2017**

<b>AGENDA ITEM:</b>	
Lakewood Neighborhood Master Plan	
<b>PREPARED BY:</b>	<b>DIRECTOR APPROVAL:</b>
Chris Holland, Planning Manager	
<b>DEPARTMENT:</b>	
Community Development	
<b>ATTACHMENTS:</b>	
<ol style="list-style-type: none"> <li>1. Lakewood Neighborhood Master Plan (December 2016)</li> <li>2. PC Recommendation</li> <li>3. PC Workshop Minutes (12.08.15, 03.22.16, 05.10.16, 09.13.16, 09.27.16 &amp; 10.25.16)</li> <li>4. PC Public Hearing Minutes (12.13.16)</li> <li>5. Public Comments</li> </ol>	
<b>BUDGET CODE:</b>	<b>AMOUNT:</b>
<b>SUMMARY:</b>	

A NON-PROJECT action amendment to the Marysville Comprehensive Plan, adopting the Lakewood Neighborhood Master Plan (LNMP), and amending the City's development regulations by adopting Chapter 22C.065 *Lakewood Neighborhood Master Plan Area – Design Requirements*.

The Lakewood Neighborhood Master Plan guides physical development over the next 20 years. The plan focuses on the infrastructure and urban design aspects of the neighborhood.

As an emerging community, Lakewood will continue to see development. The neighborhood is primarily zoned Mixed Use, Low and Medium density Multi-family residential, General Commercial and Community Business.

The City requires developments to improve the streets, manage stormwater, connect to water and sewer mainlines, and follow architectural and landscape design guidelines in order to mitigate impacts from higher intensity land uses. This plan ensures that the required improvements are in line with the community and City's vision for growth and change in Lakewood.

The vision for the Lakewood Neighborhood focuses on three (3) major topics, including Transportation Improvements, Utility Infrastructure (water, sewer and stormwater) and Urban Design Guidelines.

**RECOMMENDED ACTION:**

The Lakewood Neighborhood Master Plan will be brought to City Council for formal action on March 27, 2017.

# Lakewood Neighborhood Master Plan

**DECEMBER 2016 PC RECOMMENDATION**

PREPARED BY:  
MAKERS  
Transpo  
SvR

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# Introduction

As an emerging community, Lakewood will continue to see development. Much of the area has not yet developed to the densities allowed under current zoning. This plan ensures that development is in line with the community and City's vision.

## PURPOSE

The Lakewood Neighborhood Master Plan guides physical development over the next 20 years for the Lakewood Neighborhood, mapped in Figure 1. It is consistent with the Marysville Comprehensive Plan and provides additional detail for the Lakewood Neighborhood. This plan focuses on the infrastructure and urban design aspects of the neighborhood.

As an emerging community, Lakewood will continue to see development. The neighborhood is primarily zoned Mixed Use, General Commercial, Community Business, and Low and Medium Density Multifamily. As Figure 2 shows, much of the area has not yet developed with the uses and densities allowed by these zones. The City requires developers to improve the streets, manage stormwater, connect to water and sewer mainlines, and follow architectural and landscape design guidelines as they develop to mitigate impacts from higher intensity land uses. This plan ensures that the required improvements are in line with the community and City's vision for growth and change in Lakewood.

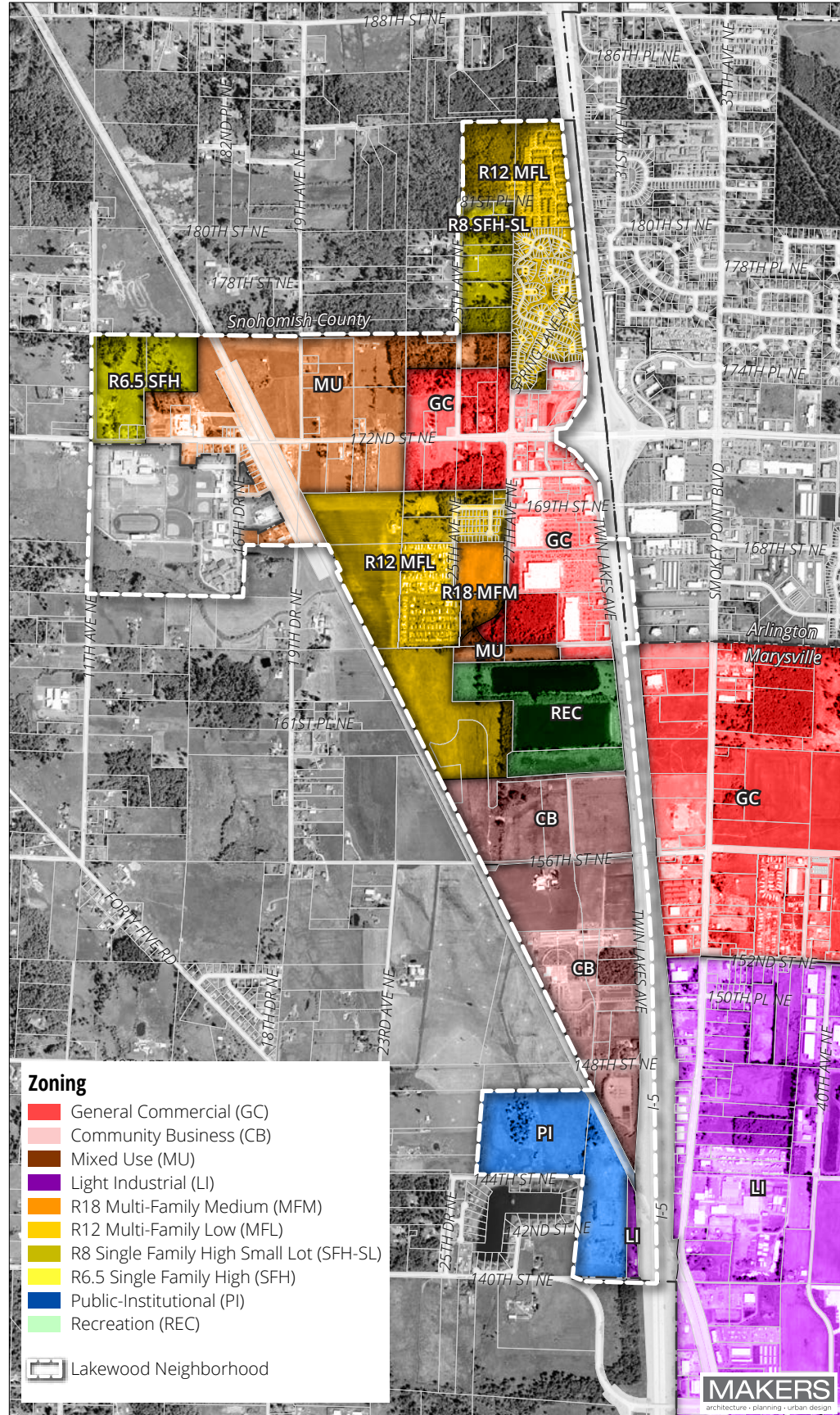
## LAKWOOD NEIGHBORHOOD

The Lakewood Neighborhood, outlined on Figures 1 and 2, is generally bounded by the railroad on the west, I-5 on the east, and the City's Urban Growth Area boundary north of 172nd St NE. Near 172nd St NE, the planning area extends across the railroad to include Lakewood schools and mixed-use residential zones. At the south tip of Lakewood, the area again extends west of the railroad to include public-institutional and light industrial zones.

## BACKGROUND

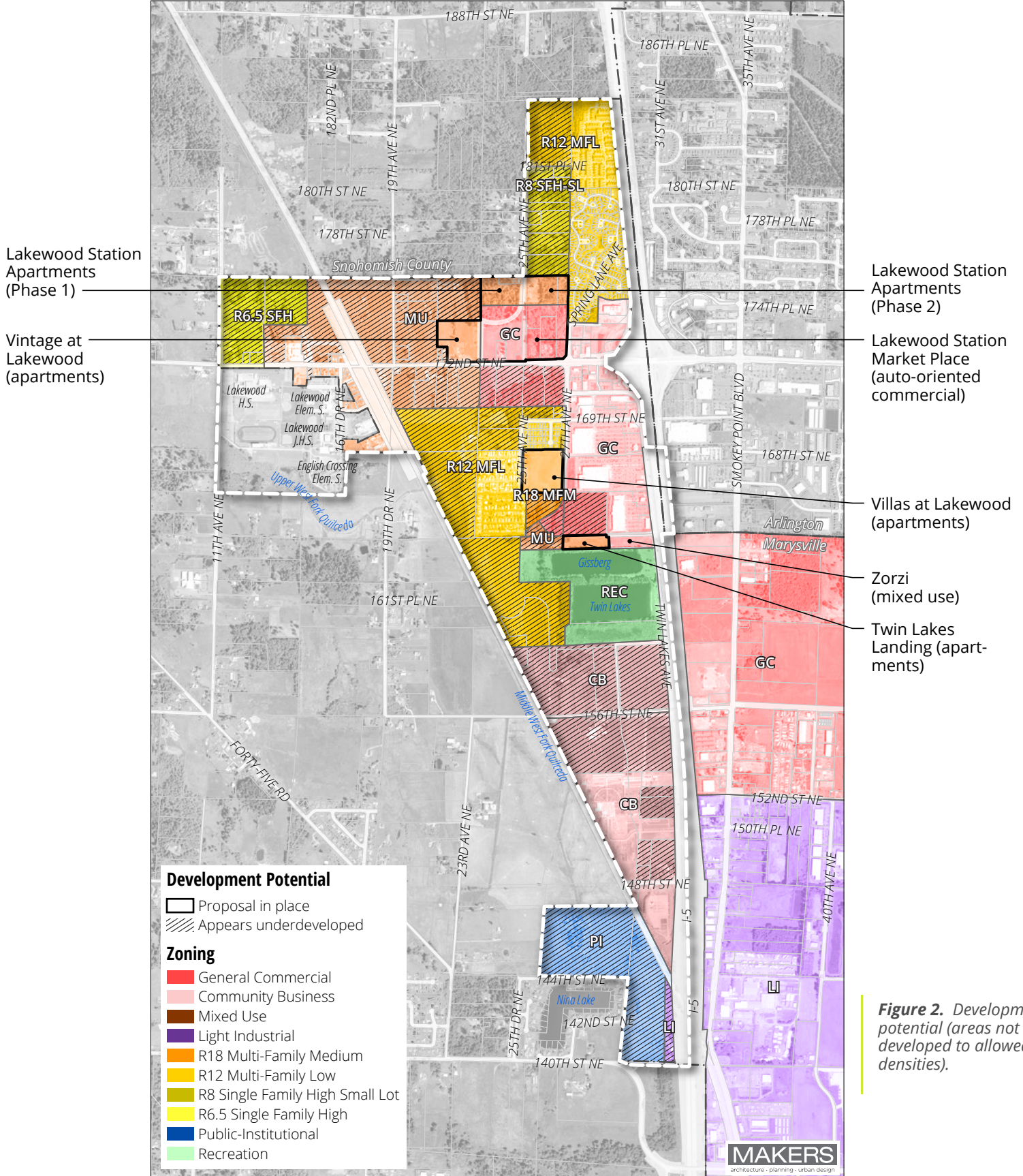
The Lakewood Neighborhood is transitioning from a long history of rural land to a more urbanized character. Since its designation as an urban growth area, it has seen substantial commercial and multifamily development that has brought more people and amenities to the area, along with the associated vehicular trips, stormwater considerations, and changing architectural character. During the neighborhood planning process, residents and

# Zoning



**Figure 1.** Existing zoning in the Lakewood neighborhood.

# Development Potential



**Figure 2.** Development potential (areas not developed to allowed densities).



property owners expressed mixed feelings about these changes. Concerns revolved around growing traffic issues and a loss of rural land to “undesired” activities (e.g., shops that do not serve local needs and multifamily housing that appears dense). Some hoped to see growth and change to draw local amenities (e.g., a grocery store west of I-5 and small local businesses), achieve the anticipated street improvements that are required with development, and build a walkable and bikable neighborhood center. These objectives are consistent with the City’s Comprehensive Plan and its vision for the Lakewood Neighborhood.

The concepts described in the “Lakewood vision” section on page 7 address three major issues:

1) **Transportation.** With a limited street network, a well-used railroad corridor, a regional shopping center, and Community Transit and school bus systems, vehicular congestion occurs along many Lakewood routes. As a future suburban neighborhood, Lakewood lacks appealing “active transportation” (i.e., walking and bicycling) routes. AARP’s Livability Index points to some of the challenges residents face regarding active transportation:

- Lakewood is below average in the number of walking trips residents take each day (.53 trips per household per day as compared to the national average of .73, Arlington’s 1.25, and Seattle’s 1.4),
- Residents in the region pay above average transportation costs (\$4,350 per year more than Seattle residents),
- Lakewood has higher than average speed limits, increasing the likelihood of fatal crashes,
- Lakewood has lower than average ADA accessibility,
- 28% of residents are obese in the region, elevating the importance of active transportation, and
- Lakewood has a far lower density of jobs and residents than average (533 people per square mile as compared to 7,014 in Arlington, 10,964 in Everett, and 17,673 in Seattle), resulting in fewer walking and biking distance destinations and opportunities for spontaneous community gathering.

This plan describes the steps needed to shift Lakewood to a healthier share of transportation modes, and a better-performing 172<sup>nd</sup> Street NE and neighborhood streets. In particular, it provides street design concepts and strengthens the requirements for regular, connected streets as development occurs.



**Figure 3.** The railroad crossing on 172<sup>nd</sup> Street NE delays traffic.

- 2) **Utility infrastructure.** As a flat, historically rural area with a high water table zoned for higher-intensity land uses, stormwater management and water and sewer service will need to be designed to accommodate the high groundwater levels and adjacent critical areas and buffers.

In the areas without high groundwater and with infiltrative soils, redevelopment within the Lakewood Neighborhood provides opportunities to incorporate Low Impact Development (LID) principles such as native vegetation protection, site phasing, and LID facilities such as bioretention swales and planters to manage stormwater. This applies to stormwater management on both private parcels and within the public rights-of-way.

- 3) **Urban design.** Lakewood lacks the feel of a cohesive neighborhood with well-connected residences, destinations, and community-oriented spaces. Despite the existence of a large, mixed-use zone, retail has only developed in the general commercial zone, is scaled to serve people arriving by automobile, is not easily accessed from the rest of the neighborhood due to the limited routes serving it, and lacks plazas or small parks to serve as community gathering spaces. In addition to the geographically disjointed feel and shortage of neighborhood character, the multifamily and mixed-use zones are experiencing residential development that, to some, appears to lack quality materials, design, and sensitivity to open space needs.



**Figure 4.** *The Lakewood Crossing shopping area has quality landscaping and building design, but the development is scaled and oriented to the automobile, not to the neighborhood or human.*



**Figure 5.** Gissberg Twin Lakes Park.



**Figure 6.** Railroad right-of-way provides space for a trail.



**Figure 7.** Rural crossroads character at 172<sup>nd</sup> Street NE and 19<sup>th</sup> Drive NE.



**Figure 8.** Regional shopping center.

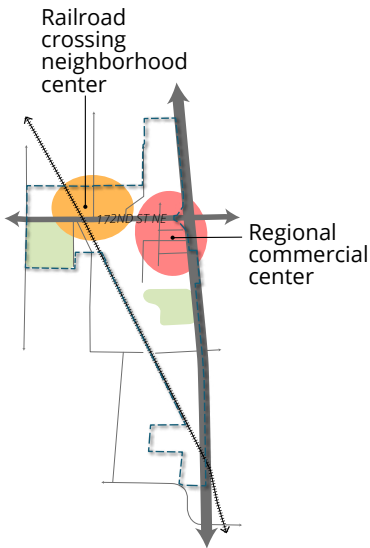
Despite these issues, Lakewood has some major assets. The concepts below build on some of Lakewood’s best characteristics:

- **Civic center.** The high, middle, and elementary schools create a hub of civic activity.
- **Gissberg Twin Lakes Park.** The park offers green space and swimming, fishing, walking, remote control boating competition, and picnicking opportunities.
- **Railroad right-of-way with opportunity for a trail.** The right-of-way and sensitive areas along the railroad provide a unique setting for a recreational trail and linear park through the neighborhood. This trail could provide an exceptional connection to Centennial Trail to the east.
- **Existing rural crossroads character.** The existing Post Office and small businesses near the railroad have the unique look and feel of a rural neighborhood crossroads. As the area develops, this could become a pedestrian-oriented center of local activity (different from the regionally-oriented shopping center near I-5). Likewise, it could build on the activity at the Lakewood School District campus.
- **Scenic views.** Lakewood provides expansive views of the Cascade Mountains.
- **Major shopping center.** The proximity to the major regional shopping center at the I-5 interchange means short trips for many retail needs.
- **Access to region.** I-5 provides excellent north-south access to Everett, Seattle, and other places in the region.

The following section describes a vision for Lakewood that, over time, solves existing issues and reinforces its assets.



# Lakewood



**Figure 9.** Lakewood's major centers.

## URBAN DESIGN CONCEPT

The Lakewood urban design concept lays out a holistic neighborhood that transitions between a rural crossroads character and a more urban mixed-use center, increases pedestrian, bicycle, and vehicular access between residences and destinations, creates community gathering places and small parks, and strengthens the identity of Lakewood as a neighborhood.

Lakewood has two major centers: 1) a regional commercial center at I-5 and 172<sup>nd</sup> Street NE and 2) a civic center with historic crossroads at 172<sup>nd</sup> Street NE and the railroad tracks. These centers are depicted in Figure 9.

## REGIONAL COMMERCIAL CENTER

The General Commercial (GC) zone (highlighted in pink in Figure 13) is nearly built out with large stores and shopping malls scaled for a regional clientele arriving by automobile. Although new development has provided sidewalks, street trees, and other quality design elements, the stores are primarily oriented to large surface parking lots and I-5, turning their backs to the neighborhood. This plan recommends:

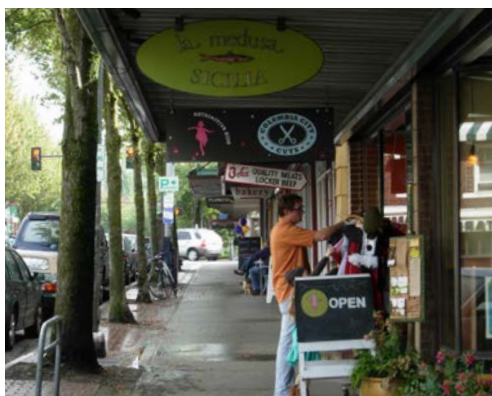
- Improving the design requirements on key streets that connect neighbors to the shopping center (see the pedestrian-oriented streets noted on Figure 17). Creating tree-lined streets with safe walking and bicycling routes in the area just outside of the GC zone to encourage active transportation amongst locals.
- Developing an interactive relationship between the Gissberg Twin Lakes Park and the shopping center by connecting the park to the neighborhood and improving the sense of safety by increasing the number of “eyes” on the park. To accomplish this, the ground floor along the street facing the park should have active uses (e.g., retail, live/work) or residential entries that transition well between private and public space (see Appendix A). Multifamily balconies looking over the park would also increase the eyes on the park.



**Figure 10.** Mixed-use building with ground floor retail fronts a street (above) and a park (below) to activate the public space and provide “eyes on the park” (photo courtesy of Riverside Rediscovered).



**Figure 11.** Pedestrian-oriented neighborhood center with active ground floors and community gathering space.



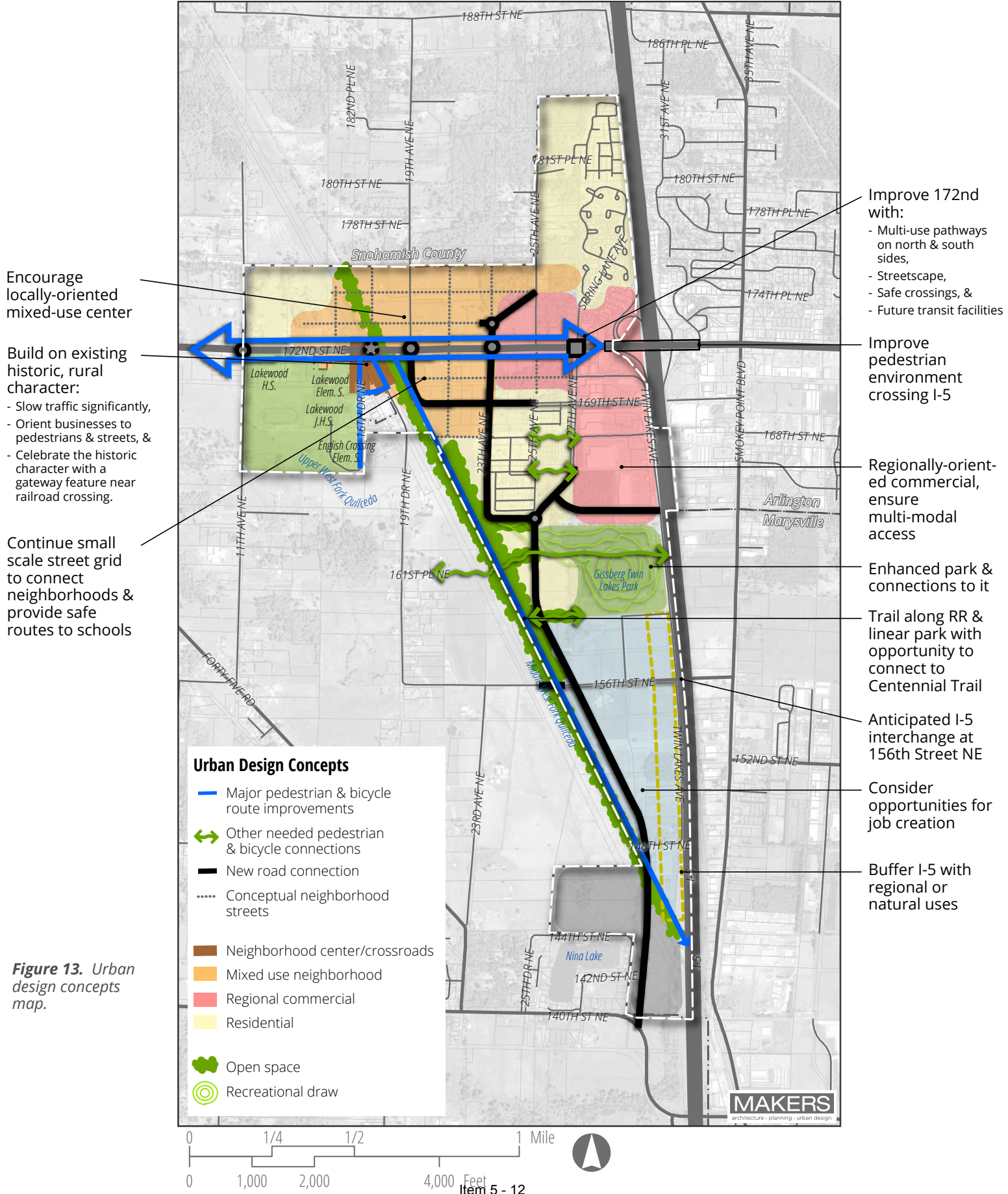
**Figure 12.** Pedestrian-oriented main street with active ground floor.

## RAILROAD CROSSING NEIGHBORHOOD CENTER

The railroad crossing area has an architectural character that ties Lakewood to its rural history, and combined with the schools, is a center of activity. Unique from the regional commercial center to the east, buildings here are scaled to humans rather than automobiles and provide space for local, small businesses. Given that Lakewood is expecting population growth, the Mixed Use (MU) zone surrounding the crossroads could become a vibrant, compact, pedestrian-oriented neighborhood. Internal destinations (i.e., a new small business main street), as well as good connections between surrounding residences and the regional shopping center about a mile away, would complete this neighborhood. To create a lively neighborhood center, this plan incorporates strengthened design standards and connectivity efforts in a locally-oriented mixed-use center (highlighted in orange in Figure 13). In particular, development standards and design guidelines should accomplish the following:

- Pedestrian-oriented main streets.** A new mixed use neighborhood center northeast of the railroad crossing at 172nd Street NE would be close enough to the existing historic buildings and schools to build on their energy, would have adequate space to develop into a true neighborhood, and would not be encumbered by heavily-trafficked roads. Ideally, a new east-west main street would develop north of 172nd bisected by 19th Avenue NE, and secondary main streets may branch out from there. Design standards that require ground floor active uses (e.g., restaurants, retail, live/work and “makers” spaces, offices) should be applied to some central streets (approximately 500 to 1,000 linear feet total) in this area (dashed circle on Figure 17). In general, commercial spaces should have limited footprints and flexible arrangements to accommodate small and growing businesses and to offer a different option than the shopping center near I-5. A neighborhood plaza or park with active edges should be required with development to provide a central community gathering space. A grocery store should be encouraged. Overall, design standards are particularly important in this area for creating a pleasant walking and resting environment.
- Historic character near 16th Drive NE and 19th Drive NE.** The existing rural crossroads character west of the railroad tracks should be preserved if possible. Consider placing a “Lakewood Community Overlay” on the area marked in brown on Figure 13 to encourage adaptive re-use over time rather than full redevelopment. Given the small sites and unique configurations, this may happen

# Urban Design Concepts

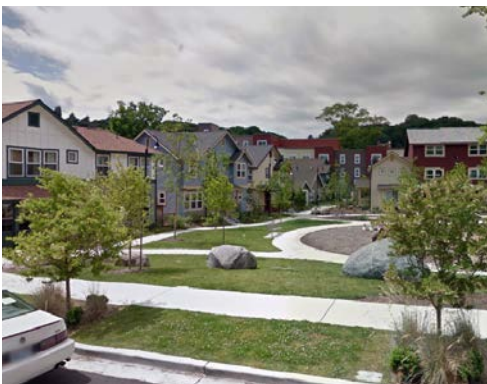




**Figure 14.** New developments will be required to provide comfortable pedestrian routes that connect to a Lakewood-wide “active transportation” network.



**Figure 15.** This plan recommends a gateway feature at the railroad crossing to announce entry to historic Lakewood and the new neighborhood center and highlight the new trail.



**Figure 16.** High-quality common open space is required with new multifamily development.

naturally, but an overlay would ensure that Lakewood maintains at least a piece of its history and rural character. Connections between the historic center and the new pedestrian-oriented center described above should be carefully considered to encourage walking and bicycling.

- **Pedestrian and bicycle connectivity.** Throughout the MU zone, buildings and streets should be laid out in a way that supports comfortable, safe, and pleasant walking and bicycling routes. Low-speed streets or paths should be provided every 200 to 300 feet. These routes should be designed primarily for active travel (i.e., non-motorized) with adequate space and quality landscaping as described in the Lakewood Design Guidelines.
- **Gateway to historic Lakewood.** A gateway feature (e.g., a sign) on the southeast corner of the railroad tracks and 172nd Street NE would announce entry into the heart of the Lakewood neighborhood. This spot marks an important link between the proposed bicycle trail on the east side of the railroad right-of-way, the new neighborhood center to the north, and the historic center to the west. Design elements might take inspiration from the railroad crossing to strengthen the local character and should provide visual cues to motorists that they are entering a unique neighborhood.

## OTHER ZONES

Other large areas in Lakewood include the following:

- **Multifamily zones** extend beyond the two major nodes described above. As the area develops, like in the MU zone described above, street connectivity and pedestrian and bicycle infrastructure will be imperative. Also important in this area are “green” connections between the railroad right-of-way trail and Gissberg Twin Lakes Park.
- **A Community Business (CB) zone** is located in southern Lakewood and is bounded by I-5 and the BNSF railroad tracks. As a thin strip of land adjacent to I-5 and disconnected from most neighborhood amenities, it is not appropriate for residential or community-oriented retail uses. The CB zone leaves the area flexible for commercial uses that may provide additional jobs in the area. When an I-5 interchange is built at 156th Street NE, this area will become even more auto-oriented and physically separated from northern Lakewood. Thus, although development would follow the design guidelines outlined in Appendix A and accommodate pedestrians and bicycles, this area would be less neighborhood oriented than the Mixed Use and residential areas to the north.

## Pedestrian-Oriented Public Areas

New streets and paths to be “pedestrian-oriented” as area develops. Pedestrian-oriented streets must have active ground floor uses. Developer may choose location, as long as it falls within this general area. Approximately 500 linear feet of continuous pedestrian-oriented streets must be provided. “Continuous streets” may include cross-streets.

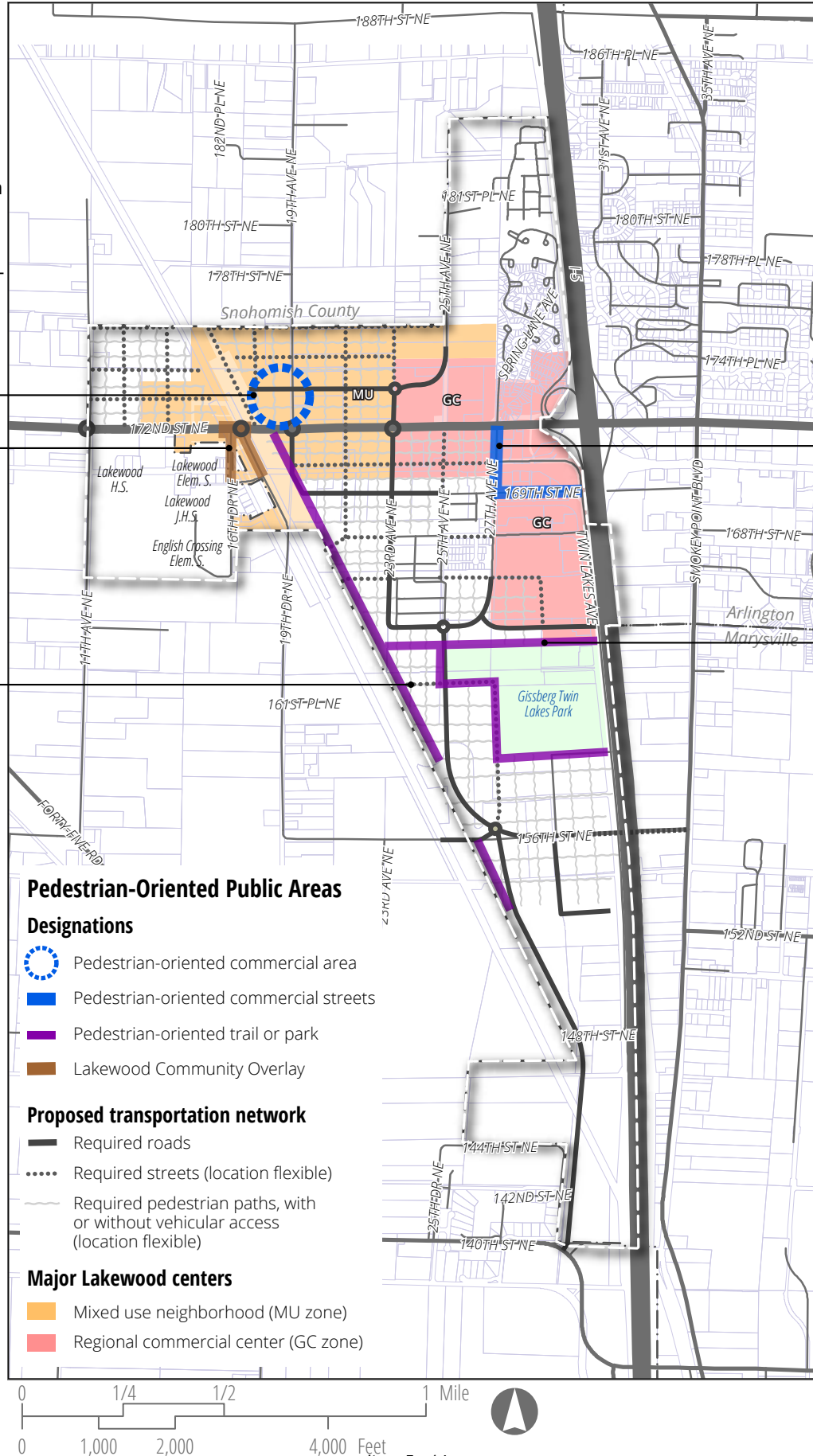
The “Lakewood Community Overlay” encourages adaptive re-use of existing buildings over time to maintain a rural crossroads character. Boundary not definitive.

Buildings should primarily orient to the human-scale local streets (i.e., “required streets” shown in dotted grey or “required pedestrian paths” in wavy grey lines) when a development fronts more than one type of street.

**Note:** all new development and redevelopment must follow the Lakewood Design Guidelines for pedestrian-friendly development throughout the neighborhood. This map identifies streets with **additional** standards for active ground floor uses and building orientation to the street or public area.

Pedestrian-oriented commercial streets: New development must provide active ground floor uses.

Pedestrian-oriented trail or park: New development must follow the Lakewood Design Guidelines in Appendix A to adequately transition from public to private space and increase natural surveillance of the public spaces without impacting residents. Any commercial uses must follow pedestrian-oriented streets guidelines.



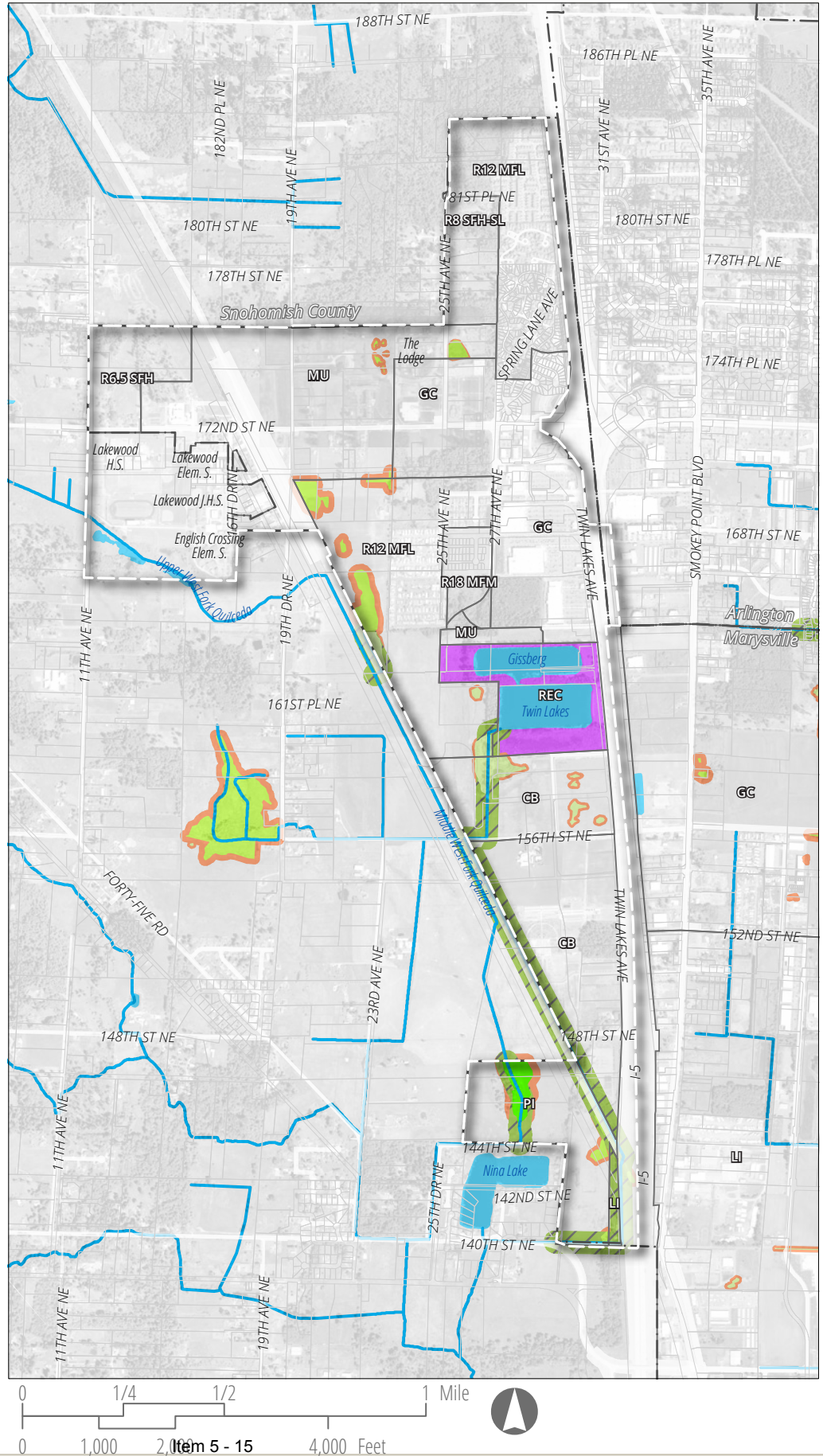
**Figure 17.** Streets, trails, and parks with special design guidelines.





# Critical Areas

**Figure 18.** Lakewood critical areas map. Actual location and type of critical areas shall be determined at the time of development application.



- **A Public-Institutional (PI) zone** found south of the railroad may be appropriate for low intensity uses, critical area restoration, or stormwater management as it is encumbered by critical areas, I-5, and the railroad tracks. The City's Comprehensive Plan allows for this property to potentially be rezoned to medium density, single family residential upon traffic analysis of 140th Street NE and a future road connection from 140th Street NE to 172nd Street NE.

## UTILITIES AND STORMWATER SYSTEM OVERVIEW

The Lakewood Subarea is located within the Quilceda Creek Basin and is specifically tributary to the West Fork of Quilceda Creek. Figure 18 shows the location of streams and other known environmentally critical areas (ECAs). Locations of ECAs may guide where utility connections can be made and may inform which types of stormwater management facilities may be used on individual parcels. New development and redevelopment is required to comply with applicable ECA codes, including Marysville Municipal Code (MMC) Chapter 22E.010.

### STORMWATER

Permitting through the City of Marysville requires new development and redevelopment to control stormwater runoff to match predevelopment conditions in accordance with MMC Chapter 14.15. New development and redevelopment are required to provide water quality treatment facilities for pollution-generating surfaces. This includes any improvements to the street network and parcel frontages.

Soils records indicate that most of the subarea is underlain by outwash soils, which are generally good for infiltration and Low Impact Development (LID). The far western side of the subarea is underlain by till soils which, depending on the depth, may not be suitable for concentrated infiltration facilities. Under the new Phase 2 National Pollutant Discharge Elimination System (NPDES) permit, the City of Marysville adopted Ordinance No. 3035 on October 10, 2016 that makes LID the preferred method for stormwater management, effective on December 31, 2016.

## WATER AND SEWER

The subarea is located within the City of Marysville water and sewer system service area. Figure 19 and Figure 20 show the existing public water and sewer infrastructure. Like in other Washington communities transitioning from rural to urban land uses, developers must provide any water and sewer infrastructure needed to support the new development. Water and sewer main extensions will be required for most new development in the Lakewood Subarea. Main extensions will be built and paid for by developers in accordance with City of Marysville Engineering Design and Development Standards (EDDS). Some developments may require lift stations and force mains to provide sewer conveyance. Upgrades to existing mains will also be required to provide sufficient conveyance capacity for water and sewer. Water and sewer services, including main line extensions, will be constructed in accordance with MMC Title 14, Water and Sewers.

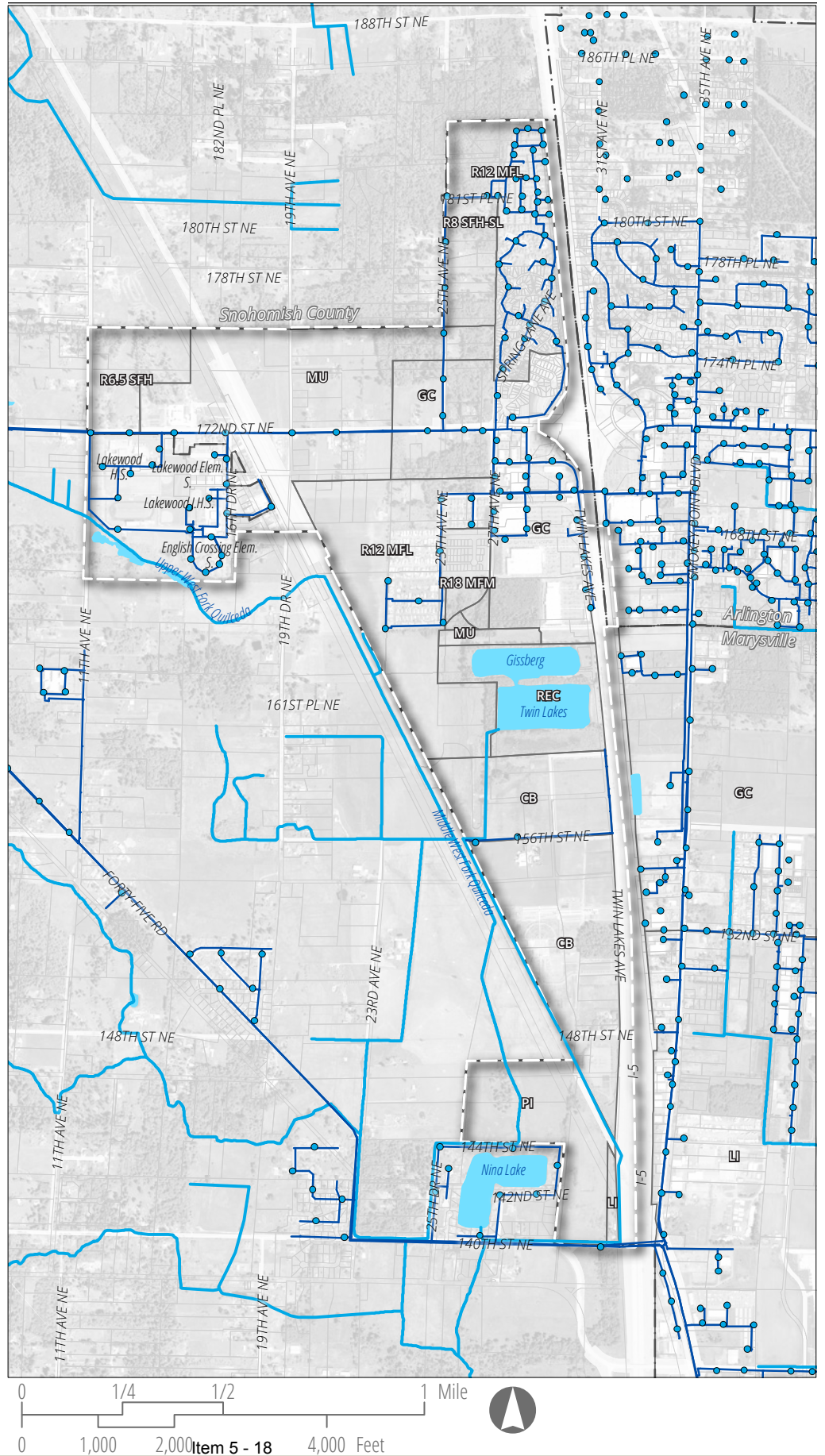
The City of Marysville Wastewater Treatment Plant (WWTP) was upgraded in 2004 to accommodate up to 20.3 million gallons per day (mgd). The sewer flow for the entire service area is expected to reach only 16.9 mgd by the year 2031. This is based on estimated population growth, including the Lakewood Neighborhood, as described in the 2011 Sewer Comprehensive Plan. The zoning within the Lakewood Subarea has not changed since the 2011 Sewer Comprehensive Plan.

According to the 2011 Sewer Comprehensive Plan Exhibit IV, the Lakewood Subarea is within Sewer Basin F. The 2011 plan identified segments of this collector line as potentially deficient for full build-out of current zoning.



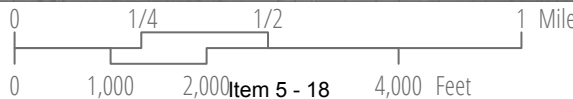
# Public Water Infrastructure (Existing)

Figure 19. Lakewood existing public water infrastructure map.



**Legend**

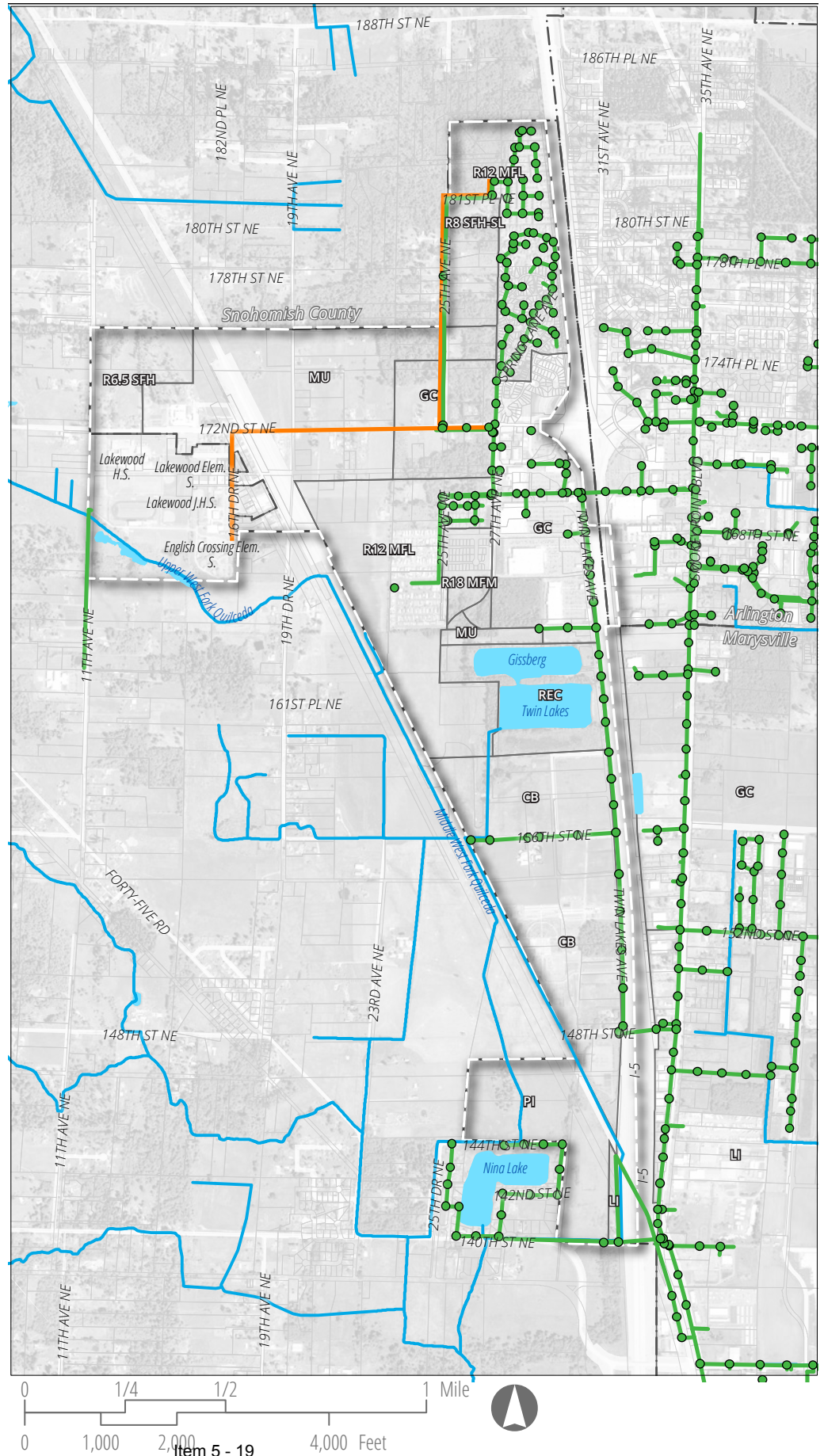
- Hydrants
- Water Pipes
- Streams
- Lakes
- Lakewood Subarea



# Public Sewer Infrastructure (Existing)



**Figure 20.** Lakewood existing public sewer infrastructure map.

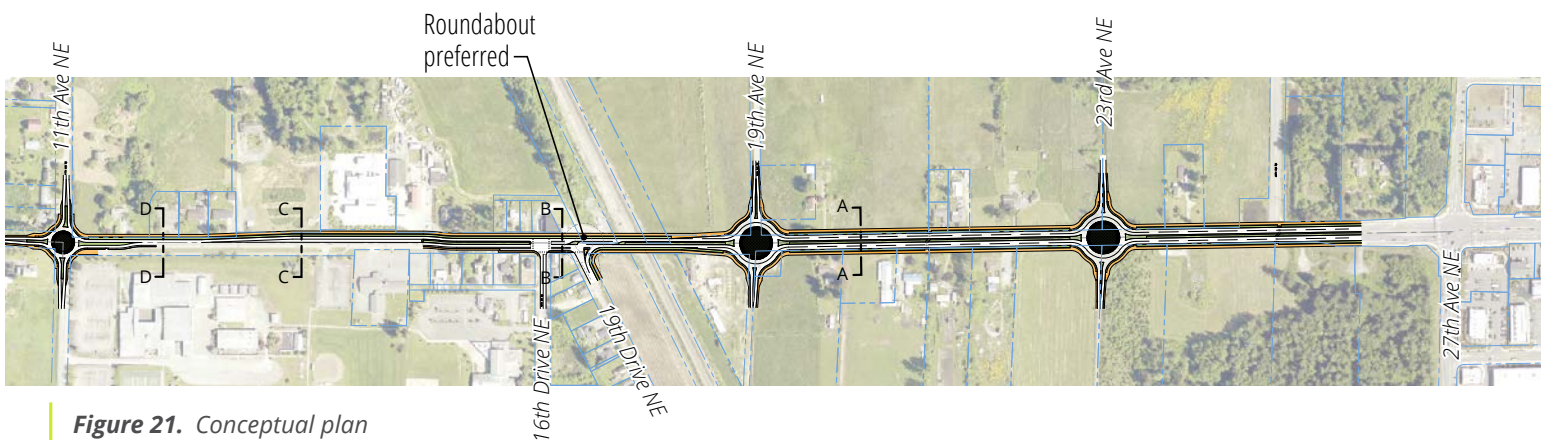


# 172<sup>nd</sup> Street NE long-term plan

The 172nd Street NE corridor is the most important street in the Lakewood subarea. It serves regional through traffic, regional trips accessing goods and services in Lakewood, and local trips. In addition, multimodal travel demands are increasing due to recent and planned mixed-use development along much of 172<sup>nd</sup> Street NE. For this reason, this plan prioritizes pedestrian and bicycle improvements, particularly through buffered multi-use trails along 172<sup>nd</sup> Street NE, while accommodating growth in vehicular traffic volumes.

This corridor plan builds upon the City's 172<sup>nd</sup> Street NE/SR-531 Corridor Analysis (Gibson Traffic Consultants, Inc. July 2013), which identified a variety of roadway and intersection capacity improvements. This analysis recommends the following:

- Adding one additional travel lane in each direction between 27th Avenue NE and 19th Avenue NE,
- Constructing two lane roundabouts at 23rd Avenue NE and at 19th Avenue NE,
- Making the intersection at 16th Drive NE right-in/right-out,
- Constructing a one-lane roundabout at 11th Avenue NE, and
- Constructing transit facilities for future bus service (i.e., Community Transit approved concrete pads for future bus shelters).



**Figure 21.** Conceptual plan for 172nd Street NE

This plan builds upon the previous analysis and the City's desire for a higher quality, more attractive multimodal corridor with an interesting urban design. A variety of pedestrian, bicycle, and urban design improvements are identified with the goal of developing a safe and attractive multimodal corridor that will link the Lakewood subarea to internal destinations and other parts of Marysville. High-quality pedestrian and bicycle facilities, including multi-use trails on both sides of 172<sup>nd</sup> Street NE and crosswalks roughly every 650 feet, are recommended. Also identified are wide, planted medians and buffers between travel lanes and the multi-use trail.

As traffic volumes decrease toward the west end of the corridor, the proposed number of travel lanes decreases from four to two with a two-way left turn lane. Pedestrian and bicycle facilities become narrower as well. Immediately to the west of the BNSF railroad tracks, a more urban "main street" roadway cross-section with parking and narrower planting strips is proposed. Farther west, roadway changes are minimized—the largest improvement being a new multi-use trail on the north side of 172<sup>nd</sup> Street NE.

The proposed concepts for 172<sup>nd</sup> Street NE were developed holistically with the rest of the transportation network, including improvements to secondary east-west and north-south vehicular circulation routes, a dense network of pedestrian routes, and safe and attractive bicycle connections to schools and parks.

## **STREETSCAPE DESIGN GUIDELINES**

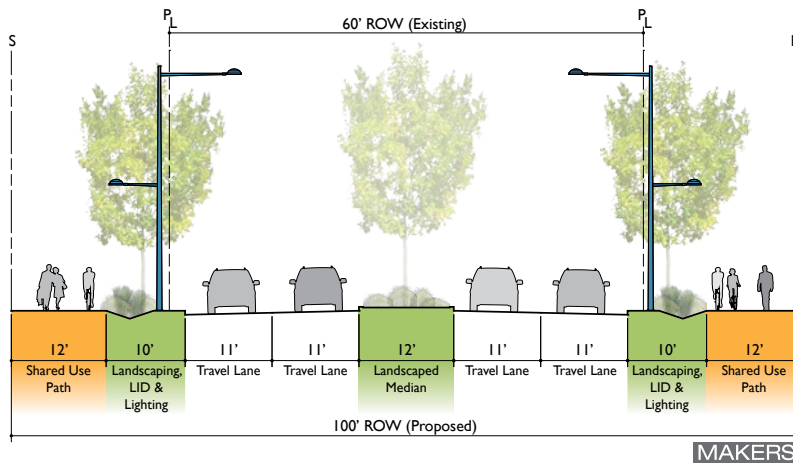
The illustrations and text below describe the three envisioned primary roadway cross-sections of 172<sup>nd</sup> Street NE from 27th Avenue NE to 11th Avenue NE. While improvements along this corridor would be funded and constructed by developers and the City, 172<sup>nd</sup> Street NE is a State Route (SR 531), so the City will work with the Washington State Department of Transportation (WSDOT) on any improvements.

The City should work with WSDOT to limit travel lane widths to discourage speeding, improve safety, limit pedestrian crossing distances, reduce costs, decrease stormwater runoff, and support the overall vision of an urban, multimodal corridor. Discussions between WSDOT and the City should reflect evolving best practices, including guidance from the WSDOT-endorsed National Association of City Transportation Officials (NACTO) Urban Street Design Guide, which recommends a maximum typical travel lane width of 11 feet.

The cross-sections below provide some detail on the varying conditions and proposed improvements along the length of 172<sup>nd</sup> Street NE.

### 27TH AVENUE NE TO JUST WEST OF 19TH AVENUE NE

This plan recommends the following characteristics for the eastern portion of 172<sup>nd</sup> Street NE:



SECTION A (Looking west between 23rd & 19th Avenues)



Figure 22. Existing conditions on 172<sup>nd</sup> Street NE between 19th Ave NE and 27th Ave NE.

Figure 23. Proposed 172<sup>nd</sup> Street NE cross-section between 19th Ave NE and 27th Ave NE.

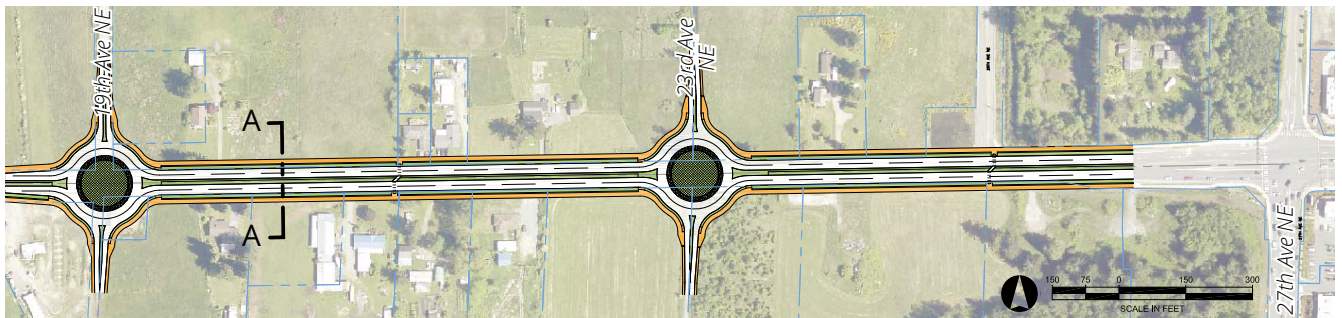


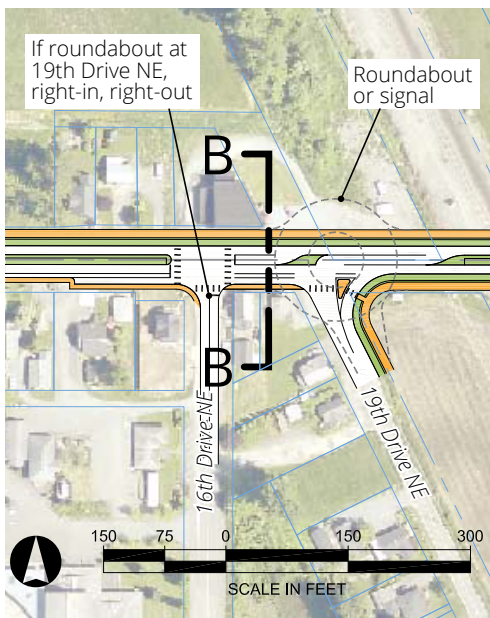
Figure 24. Proposed 172<sup>nd</sup> Street NE plan between 19th Ave NE and 27th Ave NE

- Two travel lanes in each direction. The road transitions from two travel lanes per direction at 19th Avenue NE to one travel lane per direction at the railroad tracks.
- Travel lane widths of 11 feet (preferred by the City). WSDOT has stated a preference for 12 foot inside lanes and 14 foot outside lanes. The City and WSDOT will work toward a resolution.
- Limited mid-block access points, with only right-in, right-out movements allowed (i.e., no left turns allowed).
- A median up to 12 feet in width.
- A 12 foot multi-use trail on both the north and south side of the road.
- A 10 foot planted buffer between travel lanes and the multi-use trail.
- Two lane roundabouts at:
  - 19th Avenue NE
  - 23rd Avenue NE
- Mid-block crosswalks controlled by pedestrian signal, HAWK, or RRFB's approximately halfway between:
  - 23rd Avenue NE and 19th Avenue NE
  - 27th Avenue NE and 23rd Avenue NE
- In-lane bus stops as needed on the far side of the intersection or as approved by WSDOT and Community Transit.





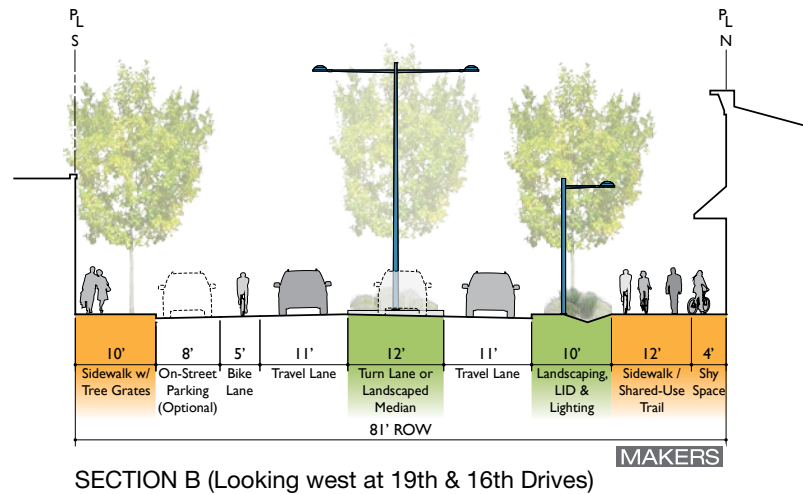
**Figure 25.** Existing conditions on 172<sup>nd</sup> Street NE between 16th Drive NE and 19th Drive NE.



**Figure 27.** Proposed 172<sup>nd</sup> Street NE plan between 16th and 19th Drives NE.

### JUST WEST OF 19TH AVENUE NE TO JUST WEST OF 16TH DRIVE NE

This plan recommends the following characteristics for this segment of 172<sup>nd</sup> Street NE:

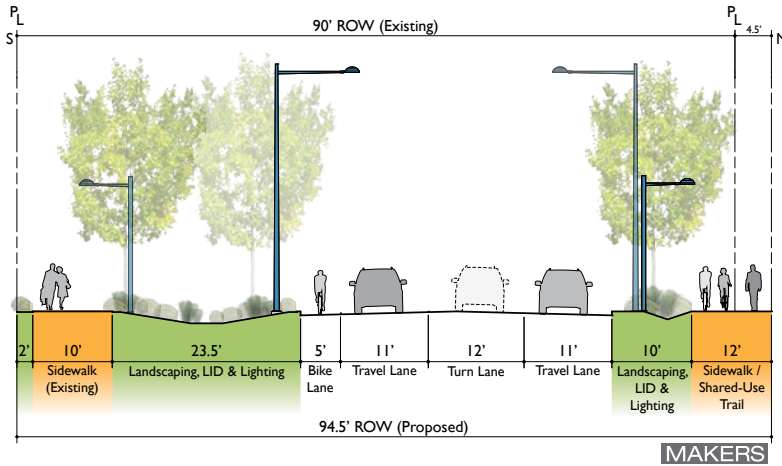


**Figure 26.** Proposed 172<sup>nd</sup> Street NE cross-section between 19th Drive NE and 16th Drive NE

- One travel lane in each direction, with westbound left turn pockets at:
  - 16th Drive NE
  - 19th Drive NE
- Travel lane widths of 11 feet (preferred by the City).
- A new signal or preferred roundabout at 19th Drive NE.
- At the intersection of 19th Drive NE, restrict northbound movement to right turn only.
- On the north side of the street, a 12-foot sidewalk and shared-use trail, 10-foot planted buffer, and 4-foot shy space (the zone adjacent to a building that a pedestrian instinctively avoids).
- On the south side of the street, a 10-foot sidewalk with tree grates and 10-foot planted buffer between the BNSF railroad tracks and 19th Drive NE. At 19th Drive NE the trail and buffer turn south, paralleling the railroad right of way to provide access to the schools via 170th Street NE.
- A bike lane, optional on-street parallel parking, and sidewalk on the south side of the street between 19th Drive NE and just west of 16th Drive NE.
- Bus stops as needed.

### JUST WEST OF 16TH DRIVE NE TO 11TH AVENUE NE

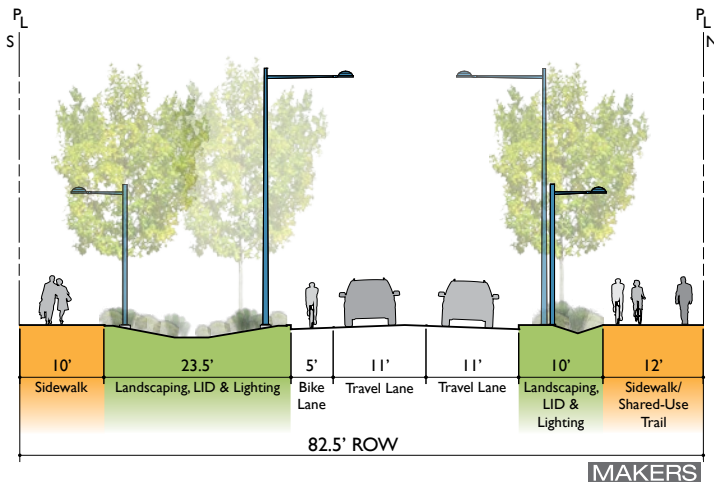
This plan recommends the following characteristics for this segment of 172<sup>nd</sup> Street NE:



SECTION C (Looking west near the Shell station)

**Figure 28.** Proposed 172<sup>nd</sup> Street NE cross-section between 16th Drive NE and 11th Ave NE.

- One travel lane in each direction as well as a two-way left turn lane.
- Travel lane widths of 11 feet (preferred by City).
- A 12-foot multi-use trail and 10-foot planted buffer on the north side of the street, with the existing sidewalk remaining on the south side of the street.
- A one-lane roundabout at 11th Avenue NE.
- A new pedestrian crossing near Shell gas station’s western driveway. The school district plans to construct a new access point to the school superblock at this location.
- In-lane bus stops as needed on the far side of the intersection or as approved by WSDOT and Community Transit.

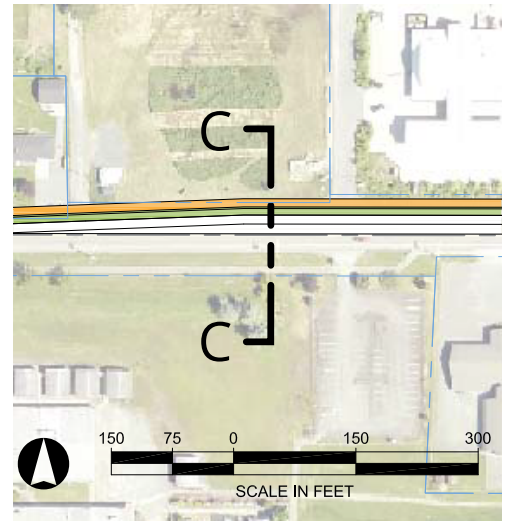


SECTION D (Looking west near Lakewood High School)

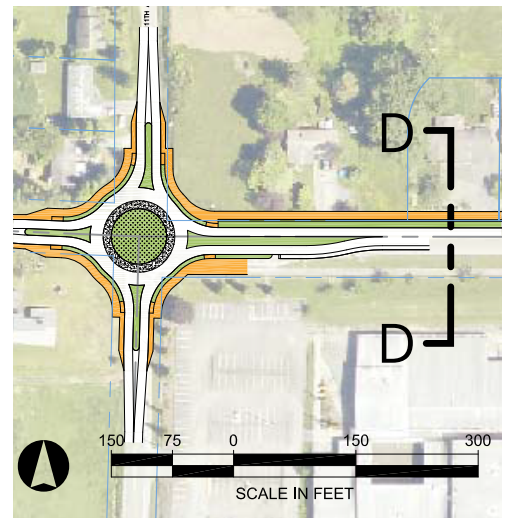
**Figure 31.** Proposed 172<sup>nd</sup> Street NE plan just east of 11th Ave NE.



**Figure 29.** Existing conditions on 172<sup>nd</sup> Street NE between 16th Drive NE and 11th Ave NE.



**Figure 30.** Proposed 172<sup>nd</sup> Street NE plan between 16th Drive NE and 11th Ave NE.



**Figure 32.** Proposed 172<sup>nd</sup> Street NE plan just east of 11th Ave NE.

## UTILITIES AND STORMWATER STRATEGY

The existing 172<sup>nd</sup> Street NE runoff generally sheet flows from the roadway into ditches or adjacent fields. The long-term plan for 172<sup>nd</sup> Street NE is to provide multiuse paths, landscaped buffers, and curb and gutter. Drainage improvements will be installed during construction of these improvements to manage the new runoff conditions. 172<sup>nd</sup> Street NE is a wide state highway (SR 531) that accommodates high volumes of arterial traffic. Thus, stormwater facilities will be more stringently evaluated for space efficiency and ability to accommodate higher pollutant loading than neighborhood streets. Intersections that meet the Ecology definition for “high-use” will require a higher level of treatment and will inform which types of stormwater management facilities are appropriate. LID will be used where feasible. LID opportunities that will be evaluated include, but are not limited to: street trees, bioretention for surfaces not considered “high-use,” permeable sidewalks, and infiltration trenches.

Performing utility upgrades and extensions in conjunction with surface improvements can reduce traffic disruptions and reduce the cost of restoration.

## IMPLEMENTATION

Construction of the identified improvements to 172<sup>nd</sup> Street NE will occur incrementally through frontage improvements by developments along the corridor, as well as through City improvements funded in part by Transportation Impact Fees (TIF). Improvements to 172<sup>nd</sup> Street NE are included in the City’s existing TIF program. The TIF is planned to be updated based on the Lakewood Subarea Plan and 2015 Transportation Element. New development will contribute towards the improvements. If developments are required to construct a portion of the 172<sup>nd</sup> Street NE projects, appropriate credit would be provided for implementing the TIF project.

To address increasing congestion in the corridor, several interim strategies have been identified. These strategies range in cost and timeline, but are targeted to address the most significant near-term priorities.

## NEAR-TERM TRANSPORTATION PRIORITIES

The following actions would provide immediate relief to some of the congestion issues raised frequently by community members:

- Restrict westbound U-turns at the intersection of 172<sup>nd</sup> Street NE and 27th Avenue NE. This would reduce congestion at the intersection by providing green arrows for traffic turning left into Lakewood Crossing and traffic turning right out of Lakewood Crossing at the same time. This is not currently an option because U-turns are allowed.
- Improve the functionality of the Twins Lake Avenue and 156th Street NE overpass by:
  - Realigning the intersection of 156th Street NE and 30th Avenue NE and move the stop sign to control traffic from the west.
  - Realigning the intersection of Twins Lake Avenue and 159th Street NE and move the stop sign to control traffic from the south.
  - Increasing the turn radius of the bridge approach roadway.

## MID-TERM TRANSPORTATION PRIORITIES

The following are high-priority actions that, if possible, would be pursued prior to the otherwise piecemeal redevelopment of 172<sup>nd</sup> Street NE:

- Implement intersection improvements ahead of roadway widening projects. Construct roundabouts and intersections to full dimensions, but stripe based on current lane configuration.
- Preemptively construct one of the two multi-use trails along 172<sup>nd</sup> Street NE to provide safe facilities for pedestrians and cyclists.
- Restrict traffic from I-5 southbound from turning left at 172<sup>nd</sup> Street NE, requiring traffic to either make a U-turn or left turn at the 23rd Avenue NE roundabout. This routing option requires completion of the 23rd Avenue NE roundabout.
- 156th Street NE interchange funded by “Connecting Washington.” This project is scheduled to begin in 2027.
- Continue supporting a new grade-separated railroad crossing and associated upgrades of 156th Street NE to a minor arterial. Non-motorized improvements to this corridor include a multi-use trail and sidewalks.

## FUNDING OPTIONS

Improving 172<sup>nd</sup> Street NE for vehicular and active transportation is a priority for the community and City. As described for both transportation and utilities improvements above, developers are responsible for providing improvements to mitigate the impacts of their developments. Over time, this system would implement the roadway, intersections, pedestrian and bicycle facilities, landscaping, and stormwater infrastructure envisioned in this plan. However, the community and City recognize that at least some elements would be best provided in a single project in the near future. For example, the multi-use trails do not become particularly useful until the entire length along 172<sup>nd</sup> is constructed. Thus, the City should consider alternate funding avenues, such as:

- WSDOT programs focused on increasing active transportation options, such as the Transportation Alternatives Program (TAP), Safe Routes to Schools, and Pedestrian and Bicycle Safety Program,
- WSDOT programs for highways, such as the Highway Improvement Program (HIP), Surface and Transportation Program (STP), and Transportation Improvement Board (TIB),
- City funding (challenge: the City has an extremely limited budget), and
- A Local Improvement District (LID) comprised of Lakewood property owners (challenge: many property owners feel that they would not directly benefit from 172<sup>nd</sup> Street NE improvements).



The growing Lakewood subarea requires improvements to the transportation system beyond 172<sup>nd</sup> Street NE. To support the growth in vehicular and non-motorized demand, a secondary network of minor and collector arterials has been identified. This network was developed to provide alternative travel routes to 172<sup>nd</sup> Street NE as well as 27th Avenue NE. The network also supports the City's vision of a second I-5 interchange at 156th Street NE in the long-term and a near-term alternate travel route to and from the Smokey Point area. Finally, the network supports a safe and attractive pedestrian and bicycle network structured around multi-use trails. As the area develops into a mixed-use center, this non-motorized network will assure that multimodal travel options are available. Coordinate with Community Transit to identify future transit service areas and improvements.

## ROADWAY SYSTEM

The proposed roadway system is primarily comprised of new north-south and east-west minor and collector arterials. Two lane roadway cross-sections are preferred, except at intersections where turn lanes are needed or analysis identifies additional capacity is necessary to meet the City's level-of-service standards. These streets include:

### NORTH OF 172<sup>ND</sup> STREET NE

- **174th Street NE.** This collector arterial runs east-west from 23rd Avenue NE to 19th Avenue NE, including bike lanes and sidewalks.
- **176th Street NE.** This collector arterial runs east-west from 25th Avenue NE to 19th Avenue NE, including bike lanes and sidewalks.
- **23rd/25th Avenue NE.** This collector arterial has recently been constructed with development of "Market Place" commercial and "The Lodge" multifamily developments. It shifts 25th Avenue NE to the west, intersecting with 172<sup>nd</sup> Street NE, and includes pedestrian facilities.
- **19th Avenue NE.** This collector arterial includes an upgrade of the rural arterial to urban arterial standards, including bike lanes and sidewalks.

## SOUTH OF 172<sup>ND</sup> STREET NE

- **27th Avenue NE.** This project includes the southward extension of 27th Avenue NE as a minor arterial, with a multiuse trail on the west side of the street and sidewalks on the east side of the road. This extension would bend westward at roughly 164th Street NE, ending at approximately 25th Avenue NE.
- **23rd Avenue NE.** This collector arterial would extend southward from the roundabout at 172<sup>nd</sup> Street NE bending eastward at roughly 164th Street NE, ending at 25th Avenue NE. This corridor would include bike lanes on the north-south segment of the corridor. The east-west segment of the corridor would include a multiuse trail on the north side of the roadway and sidewalks on the south side of the roadway.
- **19th Avenue NE/169th Street NE.** This collector arterial runs from the roundabout at 172<sup>nd</sup> Street NE and 19th Avenue NE southwards, bending eastward at 169th Street NE and extending to the end of the current street at 25th Avenue NE. The north-south segment of the roadway includes a multi-use trail on the west side roadway. The east-west segment includes bike lanes and sidewalks on both sides.
- **25th/27th Avenue NE.** This minor arterial connects the 23rd Avenue NE and 27th Avenue NE extension with 156th Street NE. The street runs from approximately 164th Street NE to 156th Street NE and includes bike lanes and sidewalks on both sides.
- **156th Street NE and Interchange.** This includes multiple large projects, such as the expansion of the 156th Street NE bridge to accommodate a new single point urban interchange. It also includes a new grade-separated railroad tracks crossing and associated upgrades of the roadway to a minor arterial. Non-motorized improvements to this corridor include a multiuse trail and sidewalks.
- **156th Street NE Multiuse Connection to Centennial Trail.** This would connect the proposed railroad trail and Lakewood Neighborhood with the regional Centennial Trail.
- **Twins Lake Avenue.** This project includes the restriping of Twins Lake Avenue between 164th Street NE and 169th Place NE with bike lanes. This restriping would be contingent upon low enough left-turn volumes once 23rd/25th/27th Avenue extensions have been completed.
- **156th Street/Twin Lakes Avenue.** This project includes short-term upgrades, such as bicycle facilities and sidewalks, to improve the attractiveness for trips between Lakewood Crossing and the Smokey Point area.

Vehicle networks will be finalized as part of future corridor studies, as adjacent properties are developed, or as approved by the City Engineer.

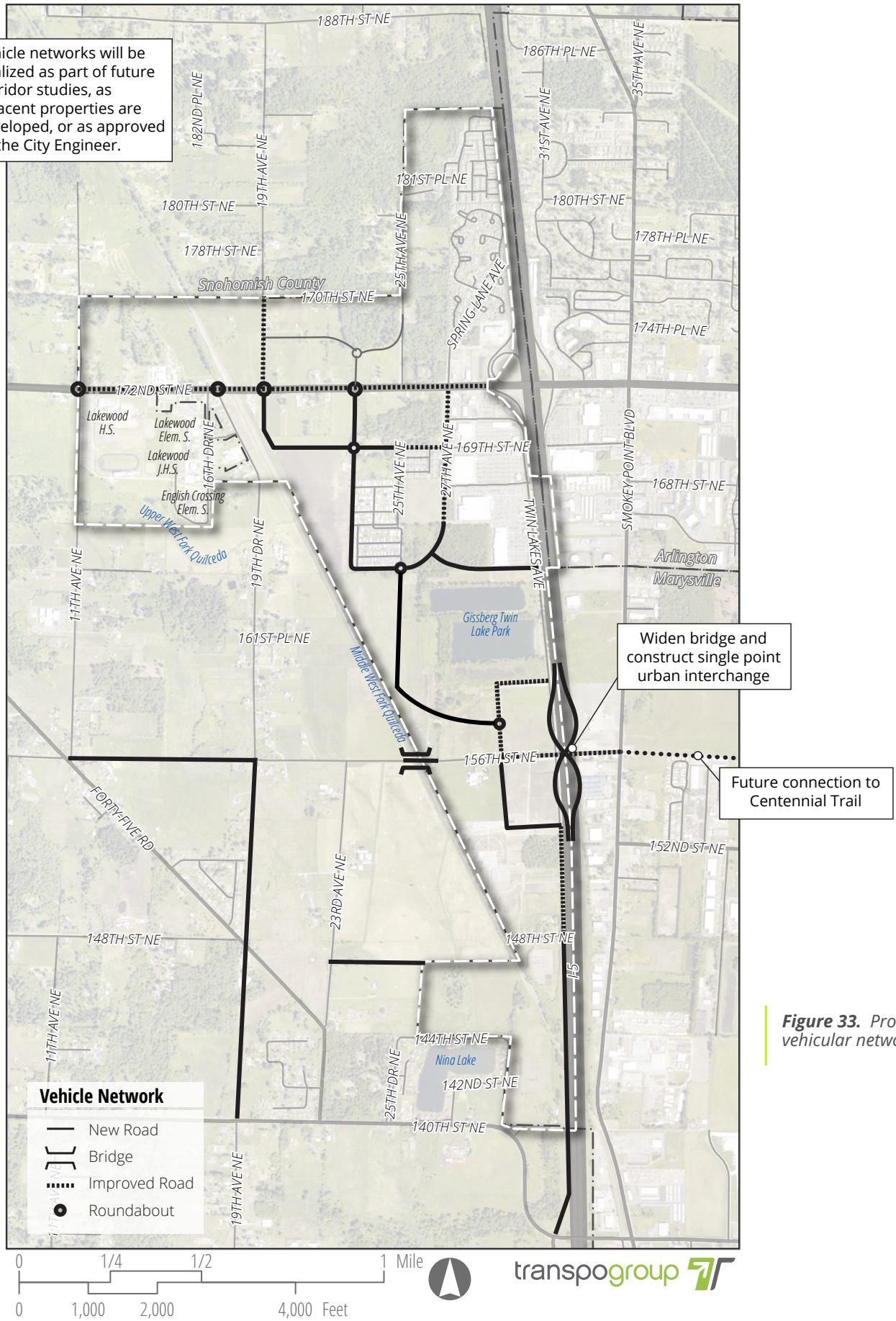


Figure 33. Proposed vehicular network map.



## NON-MOTORIZED SYSTEM

Investments in the non-motorized system largely overlap with vehicular roadway improvements, including multi-use trails along the road, sidewalks, and bike lanes/routes. A connected and high-quality network of pedestrian and bicycle facilities is proposed to support the transition of Lakewood from a rural area to a mixed-use center.

The goal of the pedestrian system is to provide a dense network of direct routes within the core of the mixed-use areas. The backbone of this network is on a ~650 foot grid and will likely be developed in coordination with local streets. A secondary network of thru-block connections should also be developed to fill in this network, providing at least one east-west and one north-south pedestrian route between each primary connection (see Figure 36). Typically, this secondary network will prioritize pedestrian and bicycle comfort while also accommodating vehicular traffic via small, local streets. The locations of these routes are flexible, but they should be developed in a way that improves overall pedestrian circulation through the site while maintaining full thru-block access. A tertiary network of pedestrian paths will be required where streets are located further than 200 feet apart to ensure an intricate and dense pedestrian system. The Lakewood Design Guidelines “Street Connectivity” section details these requirements. Big box retail or fences should not block use of these routes for continuous access from one street to the next.

The primary goal of the bicycle network is to provide connected, safe, and attractive cycling options for all ages and abilities. This plan recommends off-street multi-use trails along high-volume streets like 172<sup>nd</sup> Street NE and 27th Avenue NE and bike lanes along lower volume streets. These facilities should be built based on evolving best practices as identified by the NACTO Urban Bikeway Design Guide and City design standards. This network is supplemented by additional off-street trails parallel to the BNSF railroad right-of-way (allowed within a portion of the wetland and stream buffers), to the school superblock, and to Gissberg Twin Lakes Park. The City should work with Snohomish County, WSDOT, and the City of Arlington to improve connectivity of the regional bicycle network 156th Street NE connection to Centennial Trail.



**Figure 34.** Well laid-out development with short intervals between pedestrian paths and a “green” path connecting to a park.



**Figure 35.** Narrow streets with street trees and sidewalks provide safe and comfortable walking environments.

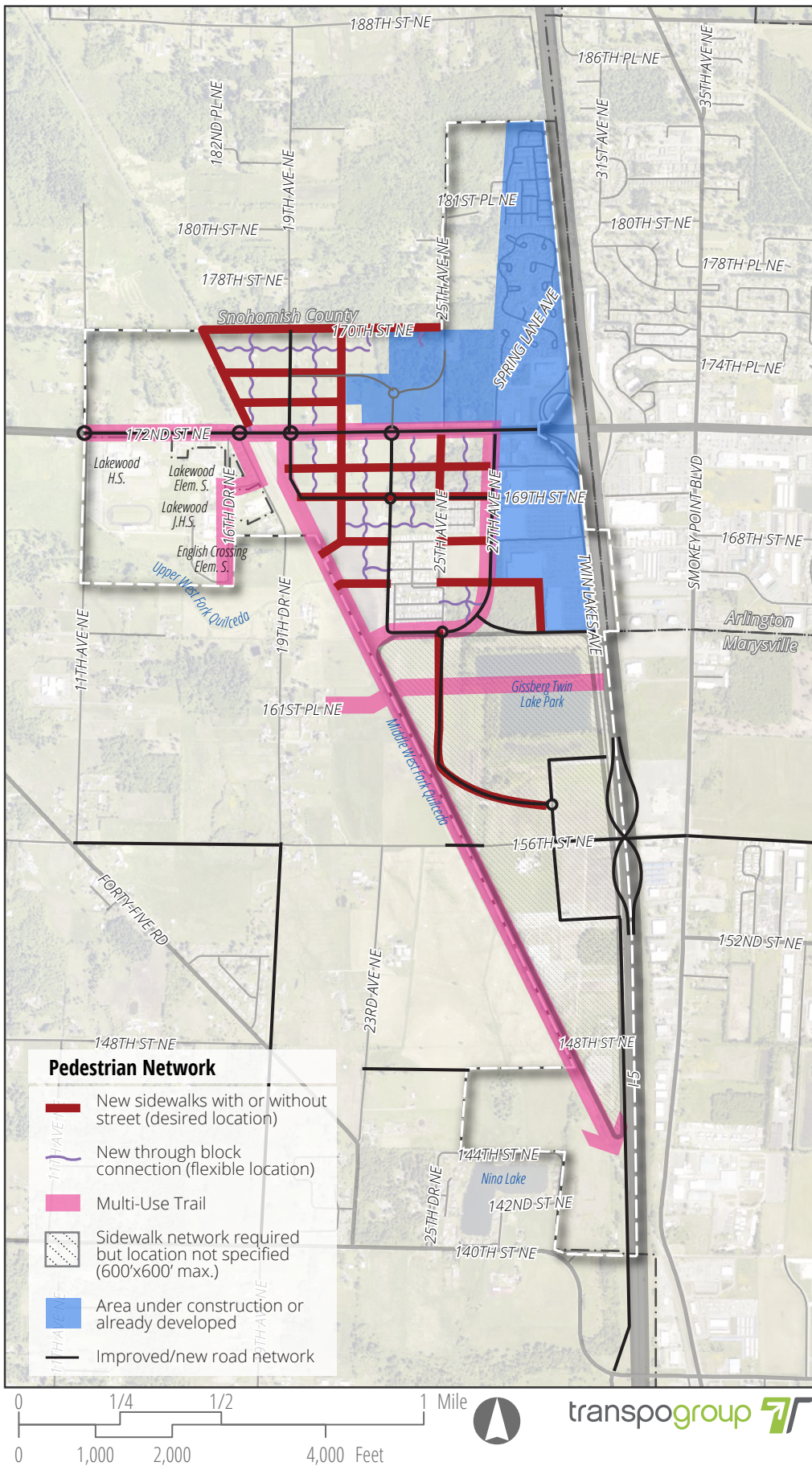
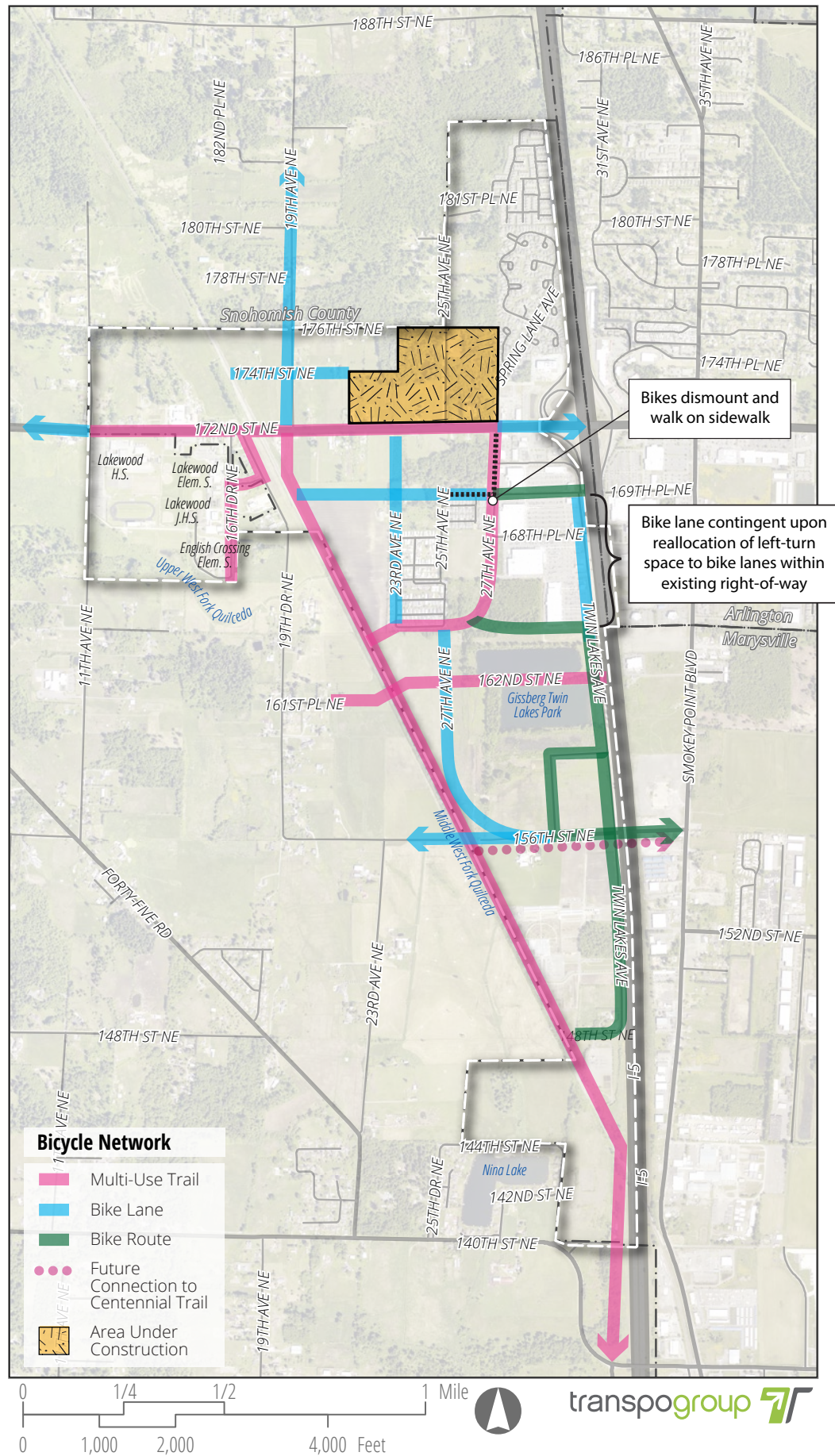


Figure 36. Proposed pedestrian network map.

**Figure 37.** Proposed bicycle network map.



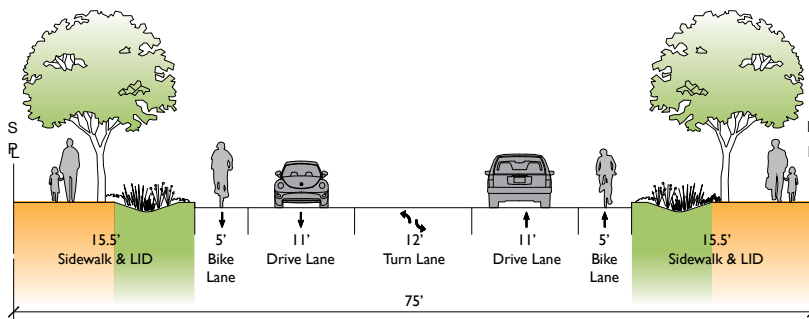
## STREETSCAPE DESIGN STANDARDS

Identified below are design guidelines for arterial and collector street connections. Cross-sections that represent the typical roadway are shown below. Two-lane roadway cross-sections are preferred, except at intersections where turn lanes are needed. Several options are presented, including both traditional drainage solutions and Low Impact Development (LID). The City Engineer shall have final authority to implement final design and cross-sections for arterial and collector street connections.

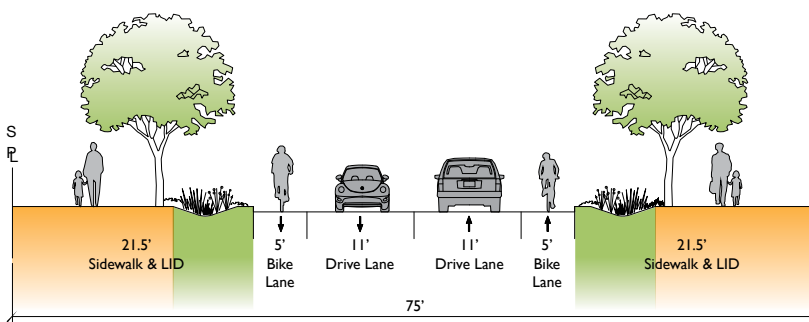
### NEW ROAD WITH BIKE LANES: OPTION 1 (WITH LID)

This plan recommends the following characteristics for a typical new street (represented in blue on Figure 37). With a 75-foot right-of-way, stormwater runoff can be treated and infiltrated onsite. Thus, this plan recommends Option 1 over Option 2. Option 1 has the following characteristics:

- Two travel lanes of 11 feet wide, with a 12-foot left turn lane at intersections.
- Access management reduces mid-block turning vehicular conflicts with pedestrians and cyclists.
- Bike lanes a minimum of 5 feet wide.
- Sidewalks a minimum of 5 feet wide with a planted buffer of varying width between travel lanes and sidewalks.
- Explore mid-block crosswalks in coordination with through-block connections.
- Traffic circles to break up longer stretches.



Street with Bike Lane 75' ROW (with a turn lane)  
(19th Ave, 23rd Ave, 27th Ave, Twin Lakes Ave, 174th St, 169th Place, 156th St)

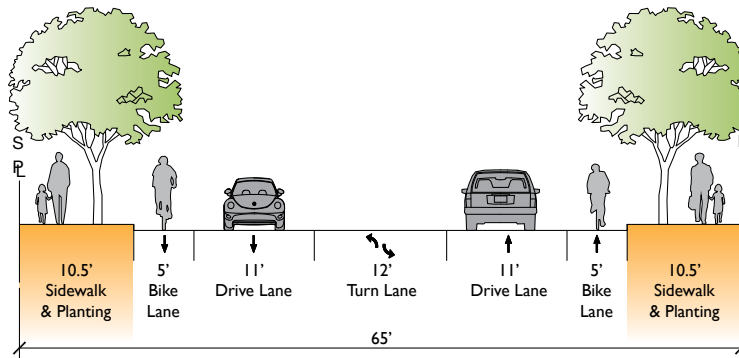


Street with Bike Lane 75' ROW  
(19th Ave, 23rd Ave, 27th Ave, Twin Lakes Ave, 174th St, 169th Place, 156th St)

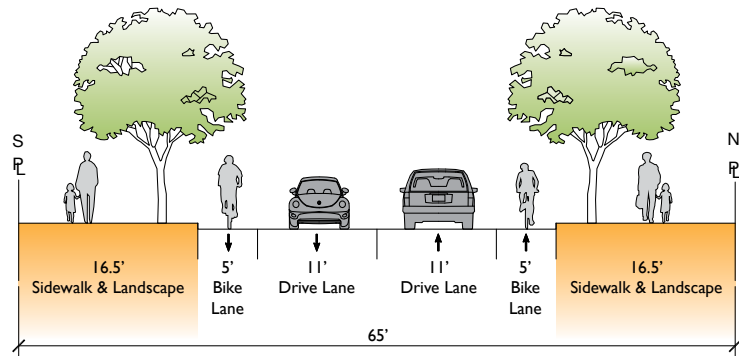
**Figure 38.** Proposed typical new road with bike lanes with LID (preferred Option 1); turn lanes at intersections (above) and narrowed for slower speeds and access management between intersections (below).

### NEW ROAD WITH BIKE LANES: OPTION 2 (WITHOUT LID)

If a 65-foot right-of-way is preferred, this plan recommends the following characteristics for a typical new street (represented in blue on Figure 37). Note that this limited right-of-way could also accommodate onsite stormwater infiltration (LID).



Street with Bike Lane 65' ROW



Street with Bike Lane 65' ROW (without a turn lane)

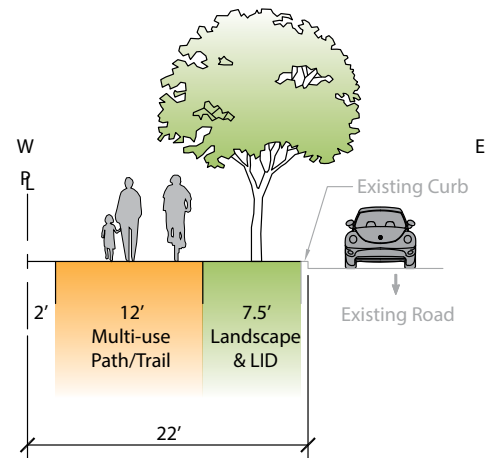
**Figure 39.** Proposed typical new road with bike lanes without LID (Option 2); turn lanes at intersections (above) and narrowed for slower speeds and access management between intersections (below).

- Two 11-foot wide travel lanes, with a 12-foot left turn lane at intersections.
- Access management should reduce mid-block turning vehicular conflicts with pedestrians and cyclists.
- Bike lanes a minimum of 5 feet wide (not including gutter).
- Sidewalks a minimum of 5 feet wide with a planted buffer of varying width between travel lanes and sidewalks.
- Explore mid-block crosswalks in coordination with through-block connections.
- Explore traffic circle locations for speed management and pedestrian safety.

## MULTI-USE TRAIL

New multi-use trails (marked in pink on Figures 36 and 37) are proposed along fairly high-volume streets that connect to major destinations, such as the Lakewood Crossing shopping center and the Lakewood schools. This cross-section would be used along segments of 27th Avenue NE, 164th Street NE, 16th Drive NE, 19th Drive NE, and 19th Avenue NE. New trails along streets should include the following elements:

- 12-foot multi-use trail with a 2-foot buffer from the property line.
- A 7.5-foot landscaped LID buffer between the trail and the roadway.
- Standard LID and sidewalk cross-section on opposite side of roadway.

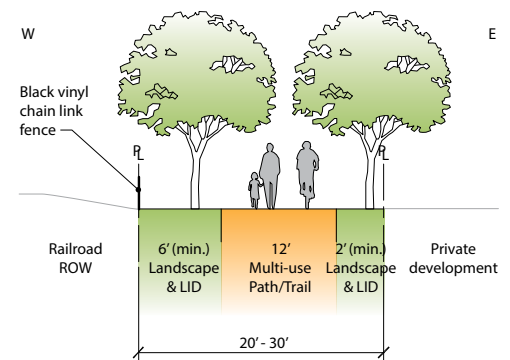


**Figure 40.** Proposed typical new multi-use trail adjacent to roads.

## TRAIL AT RAILROAD

A new multi-use trail is proposed on the east side of the railroad right-of-way. This would provide a regional connection through the Lakewood Neighborhood. Unlike many of the other proposed bicycle facilities, this trail would not be adjacent to a road, making it a potentially quieter and more suburban/rural feeling trail. Development on the east side should help to create a sense of safety and liveliness by providing eyes on the trail, frequent access points, and site and building design that relates to the trail. The trail should have the following components:

- 12-foot multi-use path/trail,
- A black vinyl chain link fence along the railroad property,
- 6-foot minimum landscaping and LID between the railroad right-of-way and the trail, and
- 2-foot minimum landscaping or shy distance between the trail and private development, depending on development needs and character.

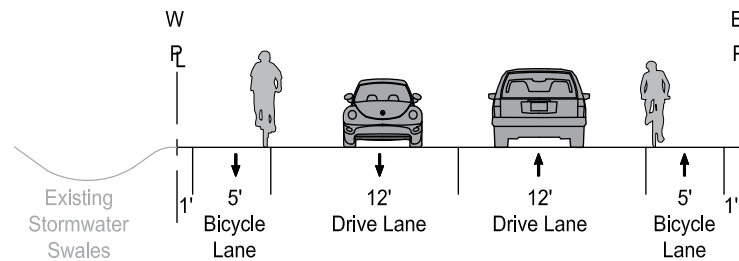


**Figure 41.** Proposed typical new multi-use trail adjacent to the railroad right-of-way.

### TWINS LAKE AVENUE RESTRIPING

Twin Lakes Avenue would provide a north-south bicycle route for eastern Lakewood. This plan notes the following for restriping the road to accommodate bicycles:

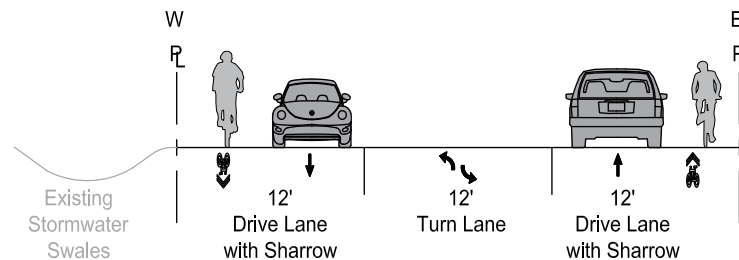
- Remove two-way-left turn lane and add 5 foot bike lanes.
- This project is contingent on traffic volumes along the road segment bracketed on Figure 37.
- This action maintains 12-foot lane widths; the need for narrower lanes might be explored.



Twin Lakes Avenue DRAFT



**Figure 42.** Proposed restriping of Twin Lakes Ave to accommodate bicycle lanes.



Twin Lakes Avenue DRAFT



**Figure 43.** Proposed bicycle sharrow placement on Twin Lakes Ave if turn lane cannot be removed.

## UTILITIES AND STORMWATER RUNOFF STRATEGY

Due to the anticipated lower traffic volumes on neighborhood roads, there is more space available for LID. Neighborhood roads will generally be new to the area. The first stormwater consideration will be to balance transportation needs while minimizing stripping and compacting of native soil. Drainage improvements and utility extensions will be installed in conjunction with surface improvements. LID opportunities that will be evaluated will include: street trees, roadside bioretention, permeable sidewalks, and infiltration trenches. In addition to providing stormwater management, LID provides buffers between pedestrians and vehicle traffic.

## DECORATIVE STREET LIGHTING REQUIREMENTS

Decorative street lighting will be required on the following streets:

- 169th Street NE
- 172nd Street NE
- 174th Street NE
- 19th Avenue NE
- 23rd/25th Avenue NE (north-south extension)
- 27th Avenue NE
- 30th Avenue NE
- 164th Street NE
- 159th Street NE
- 156th Street NE

See lighting standards in Appendix B.

## IMPLEMENTATION

As described for the 172<sup>nd</sup> Street NE implementation, neighborhood streets would be paid for and constructed by developers to mitigate new development. New “Street Connectivity” language in the Lakewood Design Guidelines will ensure that this approach eventually leads to a complete network. However, implementing major legs earlier would make the network more useful in the near-term. The pedestrian and bicycle funding mentioned for 172<sup>nd</sup> Street NE above may also be applicable for these neighborhood streets and paths. In addition, the trails and links to Gissberg Twin Lakes Park may have additional funding options as it serves a recreational and park-like purpose. These options may include City-collected parks fees, the City general fund, Community Development Block Grant (CDBG) funds, and Washington Recreation and Conservation Office (RCO) trails development funds.





# Appendix A - DESIGN STANDARDS

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## **A. Administrative**

### **A.1 Authorization and Purpose**

Design standards and guidelines are a critical tool to help guide private development in a way that can help realize the community's goals and objectives. Ultimately, the design standards and guidelines are intended to:

- (1) Encourage the realization and creation of a desirable and aesthetic environment in the Lakewood Neighborhood master plan area;
- (2) Encourage and promote development which features amenities and excellence in site planning, streetscape, building design and contribution to community charm;
- (3) Encourage creative approaches to the use of land and related physical developments;
- (4) Provide clear objectives for those embarking on the planning and design of projects in the Lakewood Neighborhood;
- (5) Increase awareness of design considerations among the citizens of the Lakewood Neighborhood; and
- (6) Bring the range of uses together by individual site plans that will:
  - (a) Demonstrate how the elements of the site relate to the street front;
  - (b) Provide for compatibility with adjacent land uses;
  - (c) Provide protection or mitigation of natural features;
  - (d) Enhance street fronts and street corners;
  - (e) Promote public safety;
  - (f) Incorporate service areas and storm water facilities in a nonobtrusive manner; and
  - (g) Provide convenient pedestrian and vehicle circulation connecting on-site activities with adjacent pedestrian routes and streets.

### **A.2 To What Properties Do the Standards and Guidelines Apply?**

These standards and guidelines apply to new development within the Lakewood Master Plan Area, as depicted in Figure A1.

### **A.3 When Do I Need to Comply?**

These standards and guidelines shall be applied by the city to individual building permits for development in the Lakewood Neighborhood Master Plan area. Section B applies to residential zones and Section C applies to commercial, mixed use and public institutional zones within the master plan area. The following are exempted from these standards and guidelines:

- (1) Construction activities which do not require a building permit;
- (2) Interior remodels of existing structures;
- (3) Modifications or additions to existing multifamily, commercial, industrial, office and public properties when the modification or addition:
  - (a) Constitutes less than 10 percent of the existing horizontal square footage of the use or structure; and
  - (b) Constitutes less than 10 percent of the existing building's exterior facade.

These standards are intended to supplement the existing and future zoning standards in the Marysville Municipal Code. The design standards will be in addition to the base standards and a site plan approval process will be required by the City of Marysville. Due to the high variety of uses allowed, some incompatibility between this plan and the Marysville Municipal

Code may arise. If there is a conflict that arises between this Master Plan and the Marysville Municipal Code, the Planning Director will issue an administrative interpretation to define which code standard will apply.

#### **A.4 How are the Standards and Guidelines Interpreted and Applied?**

These standards capture the community visions and values as reflected in the comprehensive plan's neighborhood planning areas. The city's community development director (hereinafter referred to as "director") retains full authority to determine whether a proposal meets these standards.

Within these standards, certain words are used to indicate the relative importance and priority the city places upon a particular standard.

(1) The words "shall," "must," and "is/are required," or words with their equivalent meaning, mean that the development proposal must comply with the standard unless the director finds that:

- (a) The standard is not applicable in the particular instance; or
- (b) The development proposal meets the intent of the standards in some other manner.

(2) The word "should," or words with its equivalent meaning, means that the development proposal will comply with the standard unless the director finds that:

- (a) The standard is not applicable in the particular instance;
- (b) The development proposal meets the intent of the standards in some other manner; or
- (c) There is convincing evidence that applying the standard would not be in the public interest.

(3) The words "is/are encouraged," "can," "consider," "help," and "allow," or words with their equivalent meaning, mean that the action or characteristic is allowed and will usually be viewed as a positive element in the city's review.

The project proponent may submit proposals that he/she feels meet the intent of the standards but not necessarily the specifics of one or more standards. In this case, the director will determine if the intent of the standard has been met.

#### **A.5 Review Process**

These standards and guidelines should be studied at the beginning of a prospective applicant's planning process and are intended to make people aware of the design issues that warrant early consideration. The City requires prospective applicants to apply for a **Pre-Application Conference** prior to applying for development permits. The goal of this meeting is to provide clear direction to the applicant early in the process, provide for an informal discussion of site-specific design issues and opportunities, and minimize the need for costly design changes late in the design phase.

Applicable review processes are defined in Marysville Municipal Code Title 22G *Administration and Procedures*.

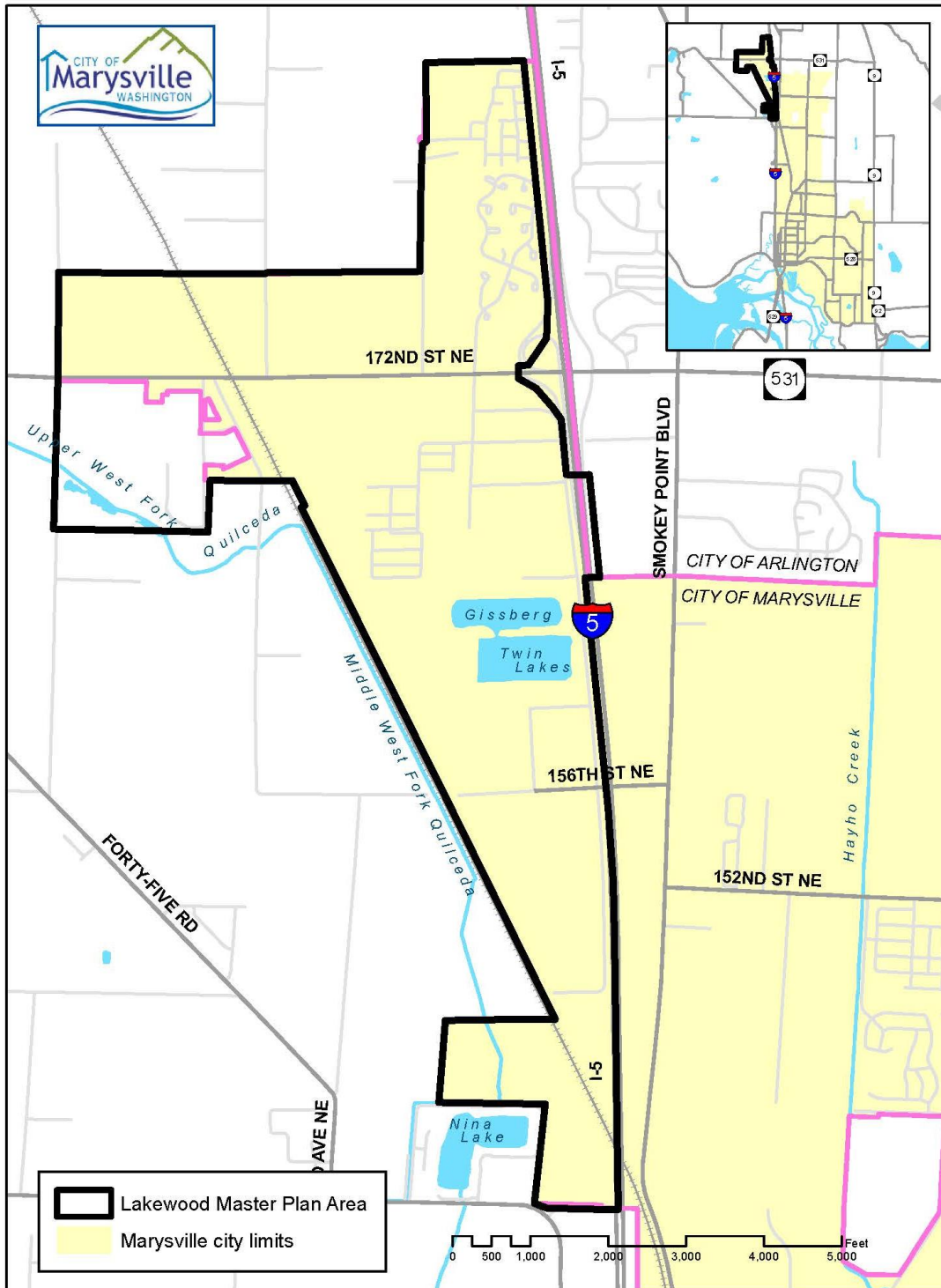


Figure A1 – Lakewood Neighborhood Master Plan Boundary Map

## B. Residential Zones

### B.1 Zero lot line development

In any PRD overlay zone, interior setbacks may be modified during subdivision or short subdivision review as follows:

If a building is proposed to be located within a normally required interior setback:

- (1) An easement shall be provided on the abutting lot of the subdivision that is wide enough to ensure a 10-foot separation between the walls of structures on adjoining lots, except as provided for common wall construction;
- (2) The easement area shall be free of structures and other obstructions that would prevent normal repair and maintenance of the structure's exterior;
- (3) Buildings utilizing reduced setbacks shall not have doors that open directly onto the private yard areas of abutting property. Windows in such buildings shall not be oriented toward such private yard areas unless they consist of materials such as glass block, textured glass, or other opaque materials, and shall not be capable of being opened, except for clerestory-style windows or skylights; and
- (4) The final plat or short plat shall show the approximate location of buildings proposed to be placed in a standard setback area.

### B.2 Cottage housing developments

- (1) Purpose. The purpose of this section is to:
  - (a) Provide a housing type that responds to changing household sizes and ages (e.g., retirees, small families, single-person households);
  - (b) Provide opportunities for ownership of small, detached units within a single-family neighborhood;
  - (c) Encourage creation of more usable space for residents of the development through flexibility in density and lot standards;
  - (d) Support the growth management goal of more efficient use of urban residential land; and
  - (e) Provide guidelines to ensure compatibility with surrounding uses.
- (2) Applicability. Cottage housing developments are allowed in residentially zoned properties in the Lakewood Neighborhood.
- (3) Accessory dwelling units shall not be permitted in cottage housing developments.
- (4) Density and Minimum Lot Area.
  - (a) Cottage housing developments shall contain a minimum of four cottages arranged on at least two sides of a common open space or configuration as otherwise approved by the director, with a maximum of 12 cottages per common open space.
  - (b) On a lot to be used for a cottage housing development, existing detached single-family residential structures, which may be nonconforming with respect to the standards of this section, shall be permitted to remain, but the extent of the nonconformity may not be increased. Such nonconforming dwelling units shall be included in the maximum permitted cottage density.
  - (c) Cottage housing developments shall be allowed a density not to exceed two times the base density allowed in the underlying zone.
- (5) Height Limit and Roof Pitch.
  - (a) The height limit permitted for structures in cottage housing developments shall be 18 feet.
  - (b) The ridge of pitched roofs with a minimum slope of six to 12 (6:12) may extend up to 28 feet. The ridge of pitched roofs with a minimum slope of four to 12 (4:12) may extend up to 23 feet. All parts of the roof above 18 feet shall be pitched.

(6) Lot Coverage and Floor Area.

(a) The maximum lot coverage permitted for buildings in cottage housing developments shall not exceed 40 percent and the maximum total lot coverage shall not exceed 60 percent.

(b) The maximum main floor area is 800 square feet.

(c) The total floor area of each cottage shall not exceed either one and one-half times the area of the main level or 1,200 square feet, whichever is less. Enclosed space in a cottage located either above the main level and more than 12 feet above finished grade, or below the main level, shall be limited to no more than 50 percent of the enclosed space of the main level, or 400 square feet, whichever is less. This restriction applies regardless of whether a floor is proposed in the enclosed space, but shall not apply to attic or crawl spaces (less than six feet in height).

(d) Attached garages shall be included in the calculation of total floor area.

(e) Areas that do not count as total floor area are:

(i) Unheated storage space located under the main floor of the cottage.

(ii) Attached roofed porches.

(iii) Detached garages or carports.

(iv) Spaces with the ceiling height of six feet or less measured to the exterior walls, such as a second floor area under the slope of a roof.

(f) The total square foot area of a cottage dwelling unit may not be increased. A note shall be placed on the title to the property for the purpose of notifying future property owners that any increase in the total square footage of a cottage is prohibited for the life of the cottage or duration of city cottage regulations.

(7) Yards.

(a) Front Yards. The front yard setback for cottage housing developments shall be 10 feet. A front porch may extend up to 5 feet into the front yard setback.

(b) Rear Yards. The minimum rear yard for a cottage housing development shall be 10 feet. If abutting an alley the rear yard setback may be reduced to five feet.

(c) Side Yards. The minimum required side yard setback for a cottage housing development shall be five feet. When there is a principal entrance along a side facade, the side yard shall be no less than 10 feet along that side for the length of the pedestrian route. This 10-foot side yard shall apply only to a height of eight feet above the access route.

(d) Interior Separation for Cottage Housing Developments. There shall be a minimum separation of 10 feet between principal structures. When there is a principal entrance on an interior facade of either or both of the facing facades, the minimum separation shall be 10 feet.

(8) Required Open Space.

(a) Quantity of Open Space. A minimum of 400 square feet per unit of landscaped open space is required. This quantity shall be allotted as follows:

(i) A minimum of 200 square feet per unit shall be private usable open space (setbacks and common open space shall not be counted as private open space); and

(ii) A minimum of 150 square feet per dwelling unit shall be provided as common open space. (Setbacks and private open space shall not be counted as common open space.)

(b) Critical areas and buffers shall not be counted as open space.

(c) Each house shall abut its private open space. A fence or hedge not to exceed three feet in height may separate private open space from common open space.

(9) Development Standards. Cottages shall be oriented around and have their main entry from the common open space.

(a) Private usable open space shall be provided in one contiguous area with a minimum area of 200 square feet. No horizontal dimension of the open space shall be less than 10 feet and shall be oriented toward the common open space, as much as possible.



(b) Required common open space shall be provided at ground level in one contiguous parcel. Each cottage shall abut the common open space, and the common open space shall have cottages abutting at least two sides.

(c) The minimum horizontal dimension for common open space shall be 20 feet.

(d) Each cottage unit shall have a covered porch or entry of at least 60 square feet with a minimum dimension of six feet on any side.

(e) Secondary entrances facing a street or sidewalk shall have at least a five-foot by five-foot porch.

(f) Separation of Identical Building Elevations. Units of identical elevation types must be separated by at least two different elevations. This will result in at least three different elevation plans per cluster. No two adjacent structures shall be built with the same building size or orientation (reverse elevations do not count as different building elevations), facade, materials, or colors.

(g) Variety in Building Design. A variety of building elements and treatments of cottages and accessory structures must be incorporated. Structures must include articulation, change in materials or texture, windows, or other architectural feature as shown in Section 22C.010.290. No blank walls are allowed.

(h) Five-foot-wide pedestrian pathways (sidewalks) must be included to provide for movement of residents and guests from parking areas to homes and other amenities.

(10) Parking shall be:

(a) Located on the cottage housing development property.

(b) Located in clusters of not more than five adjoining spaces.

(c) Screened from public streets and adjacent residential uses by landscaping or architectural screening.

(d) Parking must be located toward the rear of the principal structure and served by an alley or private driveway. Parking is not allowed in the front yard.

(e) Off-street parking requirements are as follows:

(i) Units under 700 square feet: one space per unit;

(ii) Units between 700 and 1,000 square feet: one and one-half spaces per unit; and

(iii) Units over 1,000 square feet: two spaces per unit.

(f) At least one parking stall per dwelling must be enclosed or covered.

(g) Access to parking shall be from the alley when property abuts a platted alley improved to the city's engineering design and development standards or when the director determines that alley access is feasible and desirable to mitigate parking access impacts.

(11) Covered parking areas should be located so their visual presence is minimized, and associated noise or other impacts do not intrude into public spaces. These areas should also maintain the single-family character along public streets.

(a) For shared detached garages, the design of the structure must be similar and compatible to that of the dwelling units within the development.

(b) Shared detached garage structures shall be reserved for the parking of vehicles owned by the residents of the development. Storage of items which precludes the use of the parking spaces for vehicles is prohibited.

(c) The design of carports must include rooflines similar and compatible to those of the dwelling units within the development.

(12) Screening Requirements.

(a) Common waste and other storage receptacles shall not be placed in the front yard setback area.

(b) Common waste and other storage receptacles shall be architecturally screened and/or screened with landscaping so as to mask their appearance to residents, adjacent property owners, and the public rights-of-way.

(13) Requests for Modifications to Standards. The community development director may approve minor modifications to the general parameters and design standards set forth in this chapter, provided the following criteria are met:

- (a) The site is constrained due to unusual shape, topography, easements or sensitive areas.
- (b) The modification is consistent with the objectives of this chapter.
- (c) The modification will not result in a development that is less compatible with neighboring land uses.

### B.3 Site and building design standards

(1) Applicability.

(a) Prior to submitting a building permit application, all development to which these standards apply shall be required to submit a site plan and elevations addressing the standards in this section for administrative review and approval by the community development director.

(b) The site and building design standards of this section apply to multifamily and townhome developments, whereas only subsections (2) and (4) of this section apply to single-family developments.

(2) Relationship of Buildings to Site and Street Front and Open Space.

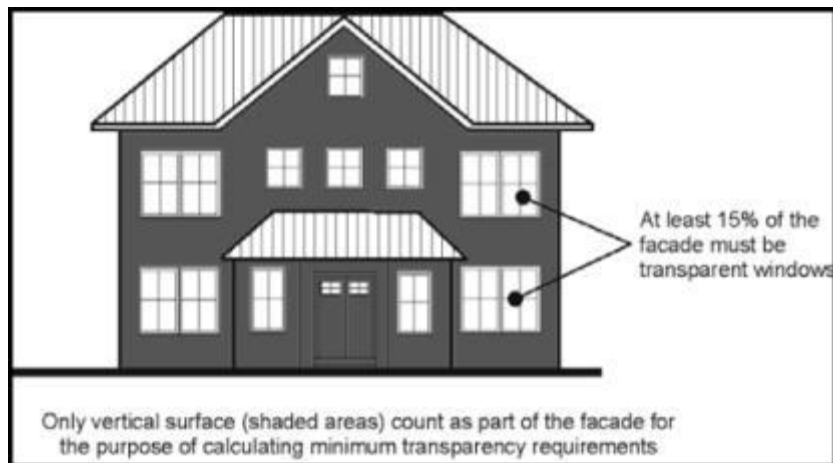
(a) The site shall be oriented and designed to create an attractive street edge and accommodate pedestrian access. The following provisions apply:

(i) The street edge shall be defined with buildings, landscaping or other features.

(ii) Primary building entrance(s) shall face the street unless it is not feasible due to parcel size, topography, environmental conditions, or other factors as determined by the director, and alternate design elements are incorporated into the facade which enliven the streetscape. Alternatively, for multifamily projects, building entries that face onto a courtyard which is oriented towards the street are acceptable. Multifamily residential buildings that face common open space shall also provide a prominent building entry facing the street conforming to provision (8) of this section.

(iii) Buildings with individual ground floor entries should face the street and/or common open space to the extent possible. Alternatively, for multifamily projects, configurations where entries face onto a courtyard or open space that is oriented to the street are acceptable.

(iv) Buildings shall provide windows that face the street to provide "eyes on the street" for safety. To meet this requirement, at least 15 percent of the facade facing the street shall be occupied by transparent windows or doors.



*Figure B1 – Illustration of facade transparency requirements which enhance safety and the relationship to the street front.*

(v) Provide for a sidewalk at least five feet wide if there is not space in the public right-of-way.

(vi) Provide building entries that are accessed from the sidewalk. These pathways must be separated from parking and drive aisles and must not cross a parking lot.

(vii) Unless the building is immediately adjacent to the public ROW, the yard or open space between the street and the building front shall be landscaped. At least 20% of the landscaped area shall be trees and shrubs.

(viii) Private ground floor living spaces directly facing a public ROW and within 60 feet of the street shall be screened with planting (shrubs and trees) at least 2' high.

(b) The development shall create a well-defined streetscape to allow for the safe movement of pedestrians.

(c) For multifamily residences, no more than 50 percent of the total public street front may be occupied by parking unless it is not feasible due to parcel size, topography, environmental conditions, or other facts as determined by the director. Where the property fronts on more than one public street, this provision applies to pedestrian-oriented streets. If none are designated, then only one street frontage. Parking lots shall not be located at the intersection of public streets.

(d) For properties facing 172<sup>nd</sup> St NE, buildings shall be set back sufficiently to provide space for the public multi-use pathway, stormwater management, landscaping, utilities, or other multi-use trails as determined by the director. Additionally, all residential buildings should be set back at least 20 feet from the public multi-use pathway and be landscaped with a mix of trees, shrubs, and ground cover. At least 50% of the landscaping must be trees and shrubs. The public trail should be distinguished from a semi-private yard with a short fence, hedge, or retaining wall (maximum 4 feet in height). The director may exempt the development from providing street trees if they are provided by the public improvement package.

(e) Relationship to common open spaces or designated pedestrian streets. The following applies to residential buildings facing common open spaces.

(i) For residences that do not have ground floor living spaces (e.g.: that have a ground floor garage facing the park), there should be at least a 5 foot planting strip along the base of the building with shrubs and small trees planted to form a continuous screen, at least 6' tall (three years after planting) along the building façade. The residence must have upper story windows or a balcony facing the open space, and there must be no "blank walls facing the open space on any floor, except the ground floor when screened with the plantings as noted above (see Figure B2).

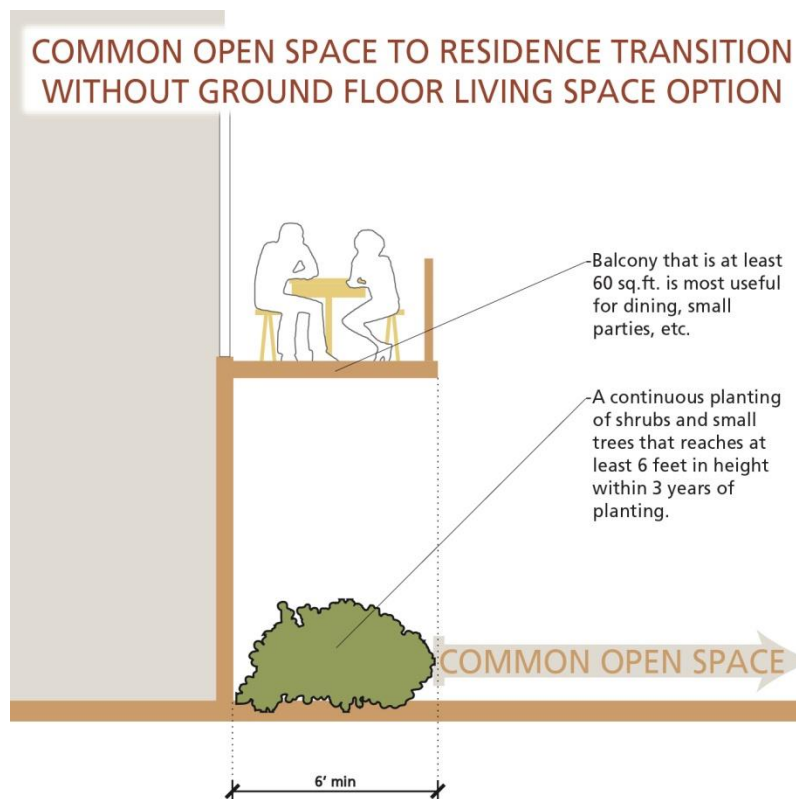


Figure B2. Planting requirements for residences without a ground floor living space fronting a common open space.

(ii) For residences with ground floor living spaces facing the open space the building must feature at least one of the public/private space transition elements described below

(A) Deck or porch option – Provide at least a 60 square foot porch or deck raised at least 1 foot above grade. The porch or deck must be at least 6 feet wide, measured perpendicular to the house face. (The deck may be recessed into the house floor plan so that the deck extends out from the house less than 6 feet). A low fence, rail or planting, 2 feet to 4 feet high, is recommended. A porch roof or weather protection is optional. (See Figure B3)

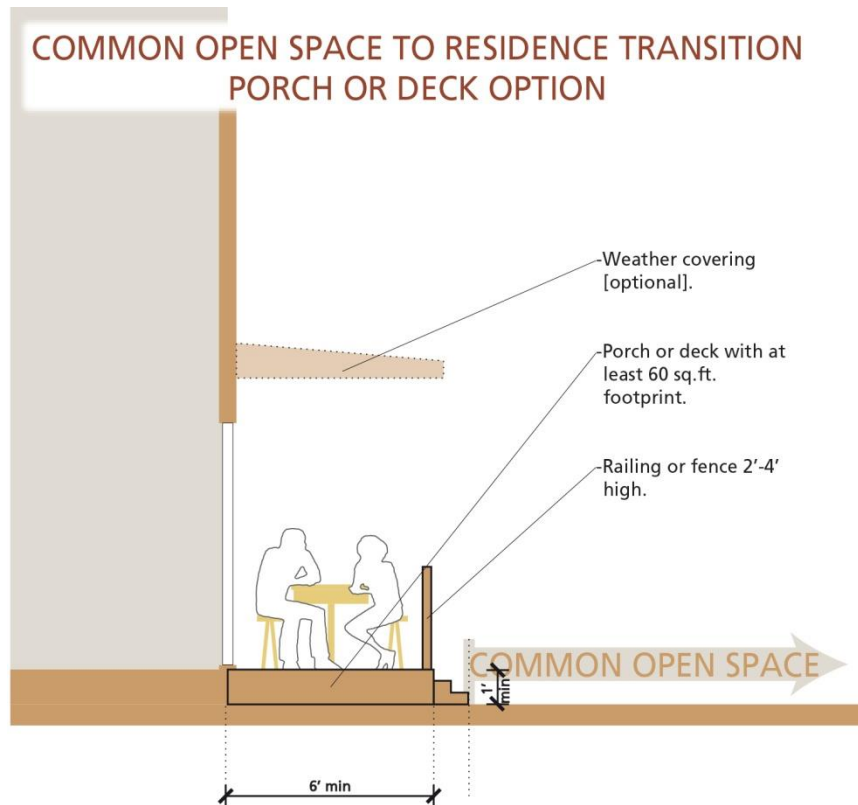


Figure B3. Deck or porch option for residence/common open space transition

(B) Private open space option – Provide at least a 10 foot wide private open space along the face of the residence. The space may be paved or landscaped but must be delineated with a fence or planting 2 to 4 feet high. (See Figure B4)

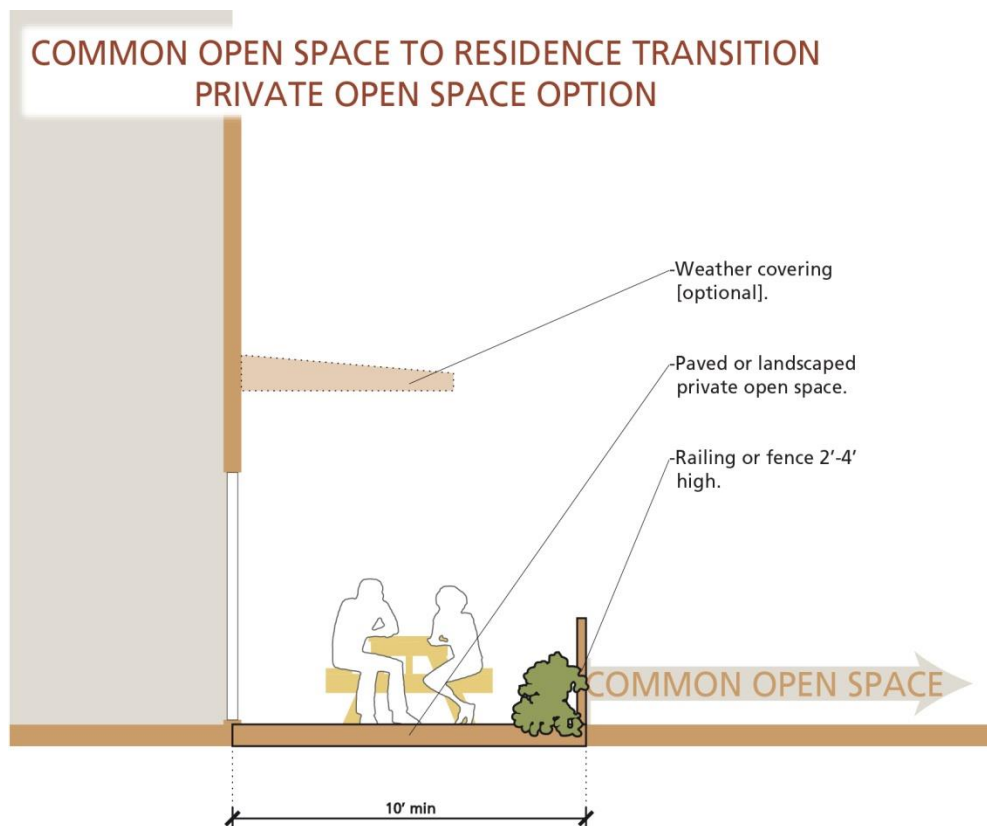


Figure B4. Private open space option for residence/common open space transition

(C) Landscaped area - Provide a landscaped area at least 8 feet wide along the face of the building. The plantings must reach 3 feet high within three years after planting.

(D) Raised ground floor- If the residence's ground floor is at least 3 feet above the grade adjacent to the building, then the landscaped area in option 3, above, may be reduced to 4 feet wide.

(E) Other transition design measure that adequately protects the privacy and comfort of the residential unit and the attractiveness and usefulness of the common open space at least as effectively as option 1 through 4 above, as determined by the City.

(F) A combination of the options described above. (e.g.: the residence could feature a smaller deck plus some additional private open space).



*Figure B5. Note how the porches and the landscaping elements provide a graceful and inviting entrance transition from the public space to the private realm.*

(3) Relationship of Buildings and Site to Adjoining Area.

(a) Where adjacent buildings and neighborhoods are consistent with the comprehensive plan and desired community character, new buildings and structures should achieve the visual continuity between the proposed and existing development building setbacks, placement of structures, location of pedestrian/vehicular facilities and spacing from adjoining buildings.

(b) Solar access of the subject and adjacent properties should be considered in building design and location.

(c) Attractive landscape transition to adjoining properties shall be provided.

(d) Public and quasi-public buildings and structures shall be consistent with the established neighborhood character.

(4) Landscape and Site Treatment.

(a) Parking lot screening and interior landscaping shall be provided consistent with [Chapter 22C.120 MMC](#). The following criteria shall guide review of plans and administration of the landscaping standards in the zoning code:

(i) The landscape plan shall demonstrate visual screening from parking areas.

(ii) The landscape plan shall provide some physical separation between vehicular and pedestrian traffic.

(iii) Where feasible, the landscape plan shall integrate natural approaches to storm water management, including featured low impact development techniques.

(iv) In locations where plants will be susceptible to injury by pedestrian or motor traffic, they shall be protected by appropriate curbs, tree guards or other devices.

(v) Screening of outdoor service yards and other places which tend to be unsightly shall be accomplished by use of walls, fencing, planting, berms or combinations of these.

(vi) Landscaping should be designed to create definition between public and private spaces.

(vii) Where feasible, the landscape plan shall coordinate the selection of plant material to provide a succession of blooms, seasonal color, and a variety of textures.

(vii) The landscape plan shall provide a transition in landscaping design between adjacent sites, within a site, and from native vegetation areas in order to achieve greater continuity.

(ix) The landscape plan shall use plantings to highlight significant site features and to define the function of the site, including parking, circulation, entries, and open spaces.

(b) Street Landscaping. Where the site plan includes streetscape plantings, the following guidelines apply:

(i) Sidewalks and pathways should be separated from the roadway by planting strips with street trees wherever possible. Street trees, at least 2-inch caliper, with spacing averaging no more than 30 feet on center, shall be provided, species as approved by the director.

(ii) Planting strips should generally be at least five feet in width. Evergreen shrubs should be no more than four feet in height and/or ground cover in accordance with the City of Marysville landscape standards ([MMC Chapter 22C.120](#)) and Marysville administrative landscaping guidelines.

(iii) Street trees placed in tree grates may be more desirable than planting strips in pedestrian areas where space is limited.

(iv) Use of trees and other plantings with special qualities (e.g., spring flowers and/or good fall color) are strongly encouraged.

(c) Exterior lighting shall be part of the architectural concept. Lighting shall enhance the building design and adjoining landscaping. Appropriate lighting levels shall be provided in all areas used by pedestrians or automobiles, including building entries, walkways, parking areas, circulation areas, and other open space areas, in order to ensure safety and security; enhance and encourage evening activities; and provide a distinctive character to the area. New developments shall provide a lighting site plan which identifies lighting equipment, locations and standards, and implements the following design standards:

(i) All publicly accessible areas shall be lighted with average minimum and maximum levels as follows:

(A) Minimum (for low or non-pedestrian and vehicular traffic areas) of one-half foot candle;

(B) Moderate (for moderate or high volume pedestrian areas) of one to two foot candles; and

(C) Maximum (for high volume pedestrian areas and building entries) of four foot candles.

(ii) Lighting shall be provided at consistent levels, with gradual transitions between maximum and minimum levels of lighting and between lit areas and unlit areas. Highly contrasting pools of light and dark areas shall be avoided.

(iii) Parking lot lighting shall be subject to the provisions set forth in [MMC 22C.130.050\(3\)\(d\)](#).

(iv) Pedestrian-scale lighting (light fixtures no taller than 15 feet) is encouraged in areas with high anticipated pedestrian activity. All fixtures over 15 feet in height shall be fitted with a full cut-off shield, be dark sky rated, and mounted no more than 25 feet above the ground with lower fixtures preferable so as to maintain a human scale. Lighting shall enable pedestrians to identify a face 45 feet away in order to promote safety.

(v) Light levels at the property line should not exceed 0.1 foot candles (fc) adjacent to business properties, and 0.05 foot candles adjacent to residential properties. All building lights shall be directed onto the building itself and/or the ground immediately



adjacent to it. The light emissions should not be visible above the roofline of the building. Light fixtures other than traditional cobra heads are encouraged.

(vi) Limited uplighting on trees and provisions for seasonal lighting is acceptable.

(vii) Limited accent lighting on architectural and landscape features is encouraged to add interest and focal points.

(5) Site Design Utilizing Crime Prevention through Environmental Design (CPTED) Principles. Development that is subject to this section shall incorporate the following CPTED strategies into building design and site layout:

(a) Access Control. Guidance of people coming and going from a building or site by placement of real and perceived barriers. Provision of natural access control limits access and increases natural surveillance to restrict criminal intrusion, especially into areas that are not readily observable.

(b) Surveillance. Placement of features, uses, activities, and people to maximize visibility. Provision of natural surveillance helps to create environments where there is plenty of opportunity for people engaged in their normal behavior to observe the space around them.

(c) Territoriality/Ownership. Delineation of private space from semi-public and public spaces that creates a sense of ownership. Techniques that reduce the perception of areas as "ownerless" and, therefore, available for undesirable uses.

Examples of ways in which a proposal can comply with CPTED principles are outlined in the CPTED Guidelines for Project Design and Review, prepared by the city.

(6) Building Design –Human-Scale Standards. The human-scale standards are intended to encourage the use of building components that relate to the size of the human body, and to add visual interest to buildings. "Human scale" addresses the relationship between a building and the human body. Generally, buildings attain a good human scale when they feature elements or characteristics that are sized to fit human activities, such as doors, porches, and balconies. A minimum of four of the following human-scale building elements shall be incorporated into the new development:

(a) Balconies or decks in upper stories, at least one balcony or deck per upper floor on the facades facing streets, provided they are integrated into the architecture of the building;

(b) Bay windows or other window treatments that extend out from the building face;

(c) At least 150 square feet of pedestrian-oriented space for each 100 lineal feet of building facade;

(d) Individual windows, generally less than 16 square feet per pane and separated from the windows by at least a six-inch molding;

(e) Porches of at least 100 square feet in area;

(f) Spatially defining building elements, such as a trellis, overhang, canopy, or other element, that defines space that can be occupied by people;

(g) Upper story setbacks, provided one or more of the upper stories are set back from the face of the building at least six feet;

(h) Smaller building elements near the entry of pedestrian-oriented street fronts of large buildings;

(i) Landscaping components that meet the intent of these standards; and/or

(j) The director may consider other methods to provide human-scale elements not specifically listed here. The proposed methods must satisfy the intent of these standards.



Figure B6 – An example of balconies that have been integrated into the architecture of the building.

(7) Building Design – Architectural Scale. The architectural scale standards are intended to encourage compatibility of structures with nearby structures, to help the building fit in with its context, and to add visual interest to buildings.

(a) Vertical Facade Modulation. All new residential buildings shall provide modulation (measured and proportioned inflection or setback in a building's facade) on facades facing a street, common open space, public area, or common parking area as follows:

(i) Buildings with facades that are 30 feet or longer shall provide vertical modulation of the exterior wall that extends through all floors; provided that where horizontal modulation is used different stories may be modulated at different depths.

(ii) The minimum modulation depth shall be three feet and the minimum modulation width for each modulation shall be 10 feet. On facades that are 100 feet or longer, the minimum depth of modulation shall be five feet and the minimum width for each modulation shall be 20 feet.

(iii) The minimum modulation depth identified in subsection (7)(a)(ii) of this section may be if tied to a change in color or building materials, and/or roofline modulation as defined in subsection (7)(c) of this section.

(iv) The director may consider departures from these standards, provided the proposed treatment meets or exceeds the intent of these standards.

(b) Facade Articulation. All new residential buildings shall include three of the following articulation features at intervals of no more than 30 feet along all facade facing a street, common open space, public area, and common parking areas:

(i) Repeating distinctive window patterns at intervals of no more than 30 feet (see Figure B7 below for an example).

(ii) Horizontal modulation (upper level step-backs, see Figure B8). To qualify for this measure, the minimum horizontal modulation shall be five feet.

(iii) Balconies that are recessed or projected from the facade at least 18 inches and integrated with the building's architecture as determined by the director.

(iv) Change of building materials.

(v) Articulation of the building's top, middle, and bottom. This typically includes a distinctive ground floor or lower floor design, consistent articulation of middle floors, and a distinctive roofline (see Figures B7 and B8).

(c) Roofline Modulation. Roofline modulation can be used in order to articulate the structure.

(i) In order to qualify as an articulation element in subsection (7)(b) of this section or in this subsection, the roofline shall meet the following modulation requirement:

(A) For flat roofs or facades with horizontal eave, fascia, or parapet, the minimum vertical dimension of roofline modulation is the greater of two feet or 0.1 multiplied by the wall height (finish grade to top of the wall) when combined with vertical building modulation techniques described in subsection (7)(a) of this section. Otherwise, the minimum vertical dimension of roofline modulation is the greater of four feet or 0.2 multiplied by the wall height.

(B) Buildings with pitched roofs must include a minimum slope of 5:12 and feature modulated roofline components at the interval required per the applicable standard above.



Figure B7 – Note the repeating distinct window patterns and the articulation of the building's top, middle and bottom.



Figure B8 – Two examples of articulating a building's top, middle, and bottom by utilizing brick on the ground floor, defined window patterns and articulation treatments on upper floors, and a distinctive roofline.

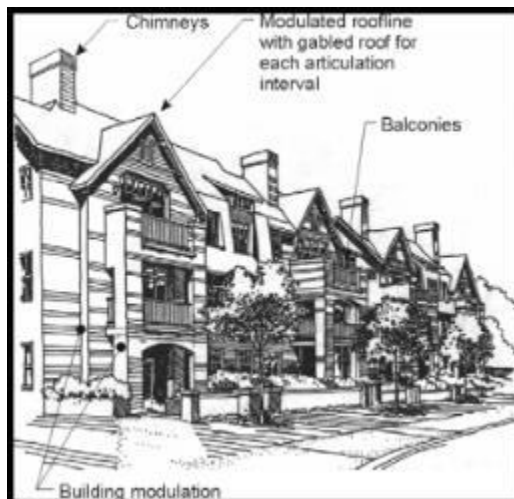


Figure B9 – Example of good articulation for a multifamily building.

(8) Building Design – Entrances. The intent of the building entrances standards is to ensure that buildings are inviting and accessible, and to encourage pedestrian activity. The principal building entrances of all buildings shall feature the following improvements, unless the director determines an alternate technique better addresses the intent of these standards:

(a) Weather cover (e.g.: porch or canopy) that is at least four feet deep and at least 32 square feet in footprint measured horizontally must be provided for the primary entrance(s) to residential units. Figures B10 and B11 demonstrate this requirement.

(b) Access to Residential Units. Ground floor residential units facing a street or common open space shall be directly accessible from the applicable street or open space.

(c) Townhouse Entrances. Townhouse and all other multifamily dwelling units with private exterior ground floor entries shall provide at least 20 square feet of landscaping adjacent to the entry. This is particularly important for units where the primary entrance is next to private garages off an interior access road. Such landscaping areas soften the appearance of the building and highlight individual entries. See Figure B11 for an example of what is desired and Figure B12 for an example of what is unacceptable.



Figure B10 – Weather protection that articulates the front facade is provided.



Figure B11 – Ground floor residential units directly accessible to the street with landscaping defining the entry.



Figure 12 – The left photo is an example of unacceptable townhouse design where there is no landscaping adjacent to the entries. The photo to the right is acceptable.

(9) Building Design – Details. The building design details standards are intended to ensure that buildings have design interest at all observable distances and to enhance the architecture of multifamily buildings. At closer distances, the most important aspects of a building are its design details, texture of materials, quality of its finishes, and small, decorative elements. Multifamily building facades shall incorporate five architectural details, except that if option e below is used, only four architectural details are required. Chosen details shall be compatible with the chosen architectural character of the building. Detail options include:

- (a) Distinctive porch design with unique design as use of materials.
- (b) Distinctive windows and doors with molding/framing details that go beyond requirements of (10) below.
- (c) Landscaped trellises or other decorative element that incorporates landscaping near the building entry or entries.
- (d) Light fixtures with a diffuse visible light source, such as a non-glare globe or “acorn”, or a decorative shade or mounting for each building entry on the facade.
- (e) Brick or stonework covering more than 10 percent of the facade.
- (f) Building materials that add visual interest, including:
  - (i) Individualized patterns or continuous wood details.

- (ii) Decorative moldings, brackets, wave trim or lattice work.
- (iii) Decorative brick or stonework (may be in addition to the brick or stonework credits noted above if they are arranged in a decorative manner that adds visual interest to the facade).
- (iv) Other materials with decorative or textural qualities as approved by the director. The applicant must submit architectural drawings and material samples for approval.
- (g) Varied roofline design, including multiple gables and/or dormers or other design that adds distinct visual interest.
- (h) Distinctive railings, grill work, or terraced landscape beds integrated along the facade of the building.
- (i) Unique balcony design, such as a distinctive geometry and configuration.
- (j) Other details that meet the intent of the standards as approved by the director.



Figure 13 – This building uses brick for more than 10 percent of the facade, a decorative mix of materials and colors, decorative entries, and decorative windows to add visual interest.

(10) Window Design for Residential Uses. Building facades shall employ techniques to recess or project individual windows above the ground floor at least two inches from the facade, or incorporate window trim at least four inches in width that features color that contrasts with the base building color. Exceptions will be considered by the director where buildings employ other distinctive windows or facade treatments that add visual interest to the building.



Figure B14 – Acceptable and unacceptable window treatments.

(11) Building Materials. The building materials standards are intended to encourage the use of a variety of high-quality, durable materials that will enhance the visual image of the city; provide visual interest and distinct design qualities; and promote compatibility and improvement within surrounding neighborhoods through effective architectural detailing and the use of traditional building techniques and materials. The following standards apply:

(a) Building exteriors shall be constructed from high-quality, durable materials. Building materials such as masonry, stone, lap-siding and wood are encouraged.

(b) The following materials are prohibited in visible locations unless an exception is granted by the director based on the integration of the material into the overall design of the structure:

(i) Plywood siding (including T-111 or similar plywood). Board and batten is an exception.

(ii) Corrugated fiberglass.

(iii) Noncorrugated and highly reflective sheet metal.

(iv) Chain link fencing; provided, that the director may approve chain link fencing when it is integrated into the overall site design (chain link fencing is also allowed for temporary purposes such as a construction site, or as a gate for a refuse enclosure).

(c) If used, metal siding and concrete block shall conform to the standards in the commercial and mixed use standards outlined in Section C.

(d) If used, sheet materials and residential siding used for building extensions shall be of the highest quality, as approved by the director.

(e) All exterior materials are subject to approval by the director. Submit material samples to the director for approval.

(12) Blank Walls. The blank wall standards are intended to: reduce the visual impact of large, undifferentiated walls; reduce the apparent size of large walls through the use of various architectural and landscaping treatments; enhance the character and identity of the city; and ensure that all visible sides of buildings provide visual interest. Blank walls visible from a public street, sidewalk, trail, interior pathway, or parking lot are prohibited.

(a) A wall (including building facades and other exterior building walls, retaining walls, and fences) is defined as a blank wall if:

(i) A ground floor wall or portion of a ground floor wall over four feet in height has a horizontal length greater than 15 feet and does not include a transparent window or door; or

(ii) Any portion of a ground floor wall having a surface area of 400 square feet or greater does not include a transparent window or door.

(b) All blank walls visible from a public street, sidewalk, trail, interior pathway, or parking lot shall be treated in one or more of the following measures:

(i) Incorporate transparent windows or doors;

(ii) Install a vertical trellis in front of the wall with climbing vines or plant materials sufficient to obscure or screen at least 60 percent of the wall's surface within three years. For large blank wall areas, the trellis must be used in conjunction with other treatments described below;

(iii) Provide a landscaped planting bed at least five feet wide, or a raised planter bed at least two feet high and three feet wide in front of the wall. Plant materials must be able to obscure or screen at least 60 percent of the wall's surface within three years;

(iv) Provide artwork (mosaic, mural, sculpture, relief, etc.) over at least 50 percent of the blank wall surface; and/or

(v) Other method as approved by the director. For example, landscaping or other treatments may not be necessary on a wall that employs high-quality building materials (such as brick) and provides desirable visual interest.

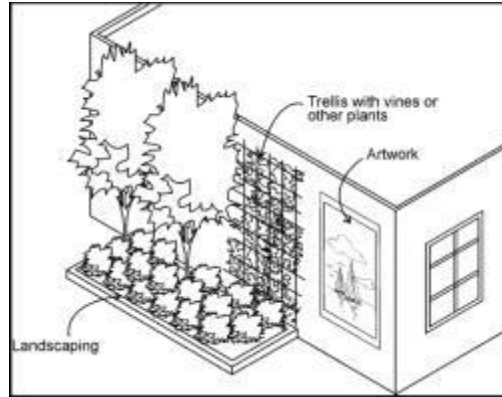


Figure B15 – Blank wall treatments.



Figure B16 – Terraced planting beds effectively screen a large blank wall.

(13) Pedestrian Circulation. All multi-family and mixed-use development shall provide a network of pedestrian pathways that connect all residences to sidewalks, in accordance with the following design standards.



Figure B17. An example of an attractive pedestrian connection through a multifamily development.

(a) For safety and access, landscaping shall not block visibility to and from a path, especially where it approaches a roadway or driveway.



(b) Pedestrian walks shall be separated from structures at least 3 feet for landscaping. The director may consider other treatments to provide attractive pathways. Examples include sculptural, mosaic, bas-relief artwork, or other decorative treatments that meet the guidelines intent. (Figure B17 provides one example.)

(c) Where the walkway is adjacent to ground level dwellings with windows facing the path, provide at least 15' separation between the window and the path.

#### **B.4 Multiple-family, townhome, and group residences – Vehicular access and parking location**

(1) On sites abutting an alley, commercial, apartment, townhome and all group residence developments shall have parking areas placed to the rear of buildings with primary vehicular access via the alley, except when waived by the planning director due to physical site limitations.

(2) When alley access is available, and provides adequate access for the site, its use is required.

(3) When common parking facilities for attached dwellings and group residences exceed 30 spaces, no more than 50 percent of the required parking shall be permitted between the street property line and any building, except when authorized by the planning director due to physical site limitations.

(4) Direct parking space access to an alley may be used for parking lots with five or fewer spaces.

#### **B.5 Single-family and duplex dwelling development standards**

The provisions of this section apply to building permits for single-family dwellings and single-family dwellings when multiple single-family dwellings are on a single lot, excluding accessory dwelling units; review will be done through the building permit process.

(1) It is the intent of these development standards that single-family dwellings be compatible with neighboring properties, friendly to the streetscape, and in scale with the lots upon which they are to be constructed. The director is authorized to promulgate guidelines, graphic representations, and examples of housing designs and methods of construction that do or do not satisfy the intent of these standards.

(2) All residential development shall be designed to front onto streets. Configurations where dwelling units and/or residential lots back up any street are prohibited. For example, new subdivisions along a street could be configured so that lots fronting on the street feature alley access in the rear or other shared driveway access as approved by the City on the side of the lots. Lot configurations where side yards face the street are acceptable.

(3) Entry. Where lots front on a public street, the house shall have doors and windows which face the street. Houses must have a distinct entry feature such as a porch or weather-covered entryway with an entry feature that is at least 60 square feet with no dimension less than six feet. Where lots front on a common open space or pathway, the requirements for orientations are the same as for a public street.

The director may approve a street orientation or entryway with dimensions different than specified herein; provided, the entry visually articulates the front facade of the dwelling so as to create a distinct entryway, meets setback requirements, provides weather cover, has a minimum dimension of four feet, and is attached to the home.

(4) Alleys.

- (a) If the lot abuts an alley, the garage or off-street parking area shall take access from the alley, unless precluded by steep topography. No curb cuts shall be permitted unless access from the alley is precluded by steep topography.
- (b) The minimum driveway length may be reduced to between six and zero feet for garages when the following conditions are met:
  - (i) An alley is provided for access;
  - (ii) At least one off-street parking space, in addition to any provided in the garage, is provided to serve that dwelling unit and the stall(s) is conveniently located for that particular dwelling; and
  - (iii) The applicable total parking stall requirement is met.
- (c) The rear yard setback may be reduced to zero feet to accommodate the garage.
- (d) If the garage does not extend to the property line or alley, the dwelling unit above the garage may be extended to the property line or alley.
- (e) Dwellings with a wall facing an alley must provide at least one window facing the alley to allow observation of the alley.
- (5) Auto Courts.
  - (a) Auto courts are only allowed in a PRD.
  - (b) Auto courts provide ingress and egress to a cluster of no more than six dwellings and access from a nonarterial street. Auto court design must be consistent with the city's design guidelines for auto courts.
  - (c) Auto courts shall be no less than 20 feet in width; provided, that if emergency services access is required, the driving surface dimensions will comply with emergency vehicle access requirements.
  - (d) Auto courts shall be no greater than 150 feet in length, unless acceptable emergency vehicle turnaround is provided and designed so vehicles will not back onto public streets.
  - (e) Driveway length may be reduced to between three feet and six feet for garages when at least two parking spaces are provided for the unit in addition to the garage. The additional parking must be conveniently located to the dwelling.
- (6) Facade and Driveway Cuts. If there is no alley access and the lot fronts on a public or private street, living space equal to at least 50 percent of the garage facade shall be flush with or projected forward of the garage, and the dwelling shall have entry, window and/or roofline design treatment which emphasizes the house more than the garage. Where materials and/or methods such as modulation, articulation, or other architectural elements such as porches, dormers, gables, or varied roofline heights are utilized, the director or designee may waive or reduce the 50 percent standard. Driveway cuts shall be no more than 80 percent of the lot frontage; provided, that the director or designee may waive the 80 percent maximum if materials and/or methods to de-emphasize the driveway, such as ribbon driveways, grasscrete surface, or accent paving, are utilized.
- (7) Privacy. Dwellings should be situated to respect the privacy of abutting homes and to create usable yard space for the dwelling(s). Windows should be placed to protect privacy. The review authority shall have the discretion to establish setback requirements that are different than may otherwise be required in order to accomplish these objectives.
- (8) Individual Identity. Home individuality shall be achieved by the following:
  - (a) Avoiding the appearance of a long row of homes by means such as angling houses, varied street setbacks, and varied architectural design features.
  - (b) Each dwelling unit shall have horizontal or vertical variation within each unit's front building face and between the front building faces of all adjacent units/structures to provide visual diversity and individual identity to each unit. Upon building permit application, a plot plan of the entire structure shall be provided by the builder to show compliance with this requirement. The director or designee shall review and approve or

deny the building design, which may incorporate variations in rooflines, setbacks between adjacent buildings, and other structural variations.

(c) The same building plans cannot be utilized on consecutive lots. "Flip-flopping" of plans is not permitted; provided, that upon demonstration to the director that the alteration of building facades would provide comparable visual diversity and individual identity to the dwelling units as different building plans, this provision shall not apply.

Materials and/or methods which may be utilized to achieve visual diversity include, but are not limited to, use of differing siding material, building modulations and roofline variations.

(9) Landscaping. Landscaping of a size and type consistent with the development must be provided to enhance the streetscape. Landscaping will enhance privacy for dwellings on abutting lots and provide separation and buffering on easement access drives. Landscaping shall consist of two native trees per unit, planted in the front yard, which are at least one and one-half inches in caliper for deciduous or six feet in height for evergreen trees, plus a mixture of trees, shrubs and ground cover as appropriate to the site. All required landscaping shall be installed in accordance with the plans prior to issuance of an occupancy permit. Where applicable, street frontage landscaping shall comply with the city's streetscape plan.

(10) Duplexes. Duplexes must be designed to architecturally blend with the surrounding single-family dwellings and not be readily discernible as a duplex but appear to be a single-family dwelling.

## **B.6 Community open space and recreation space required**

The on-site open space and recreation space standards are intended to provide usable, accessible, and inviting open space for residents that enhances residential areas. Multifamily residential uses shall provide open space equivalent to at least 20 percent of the building's gross floor area and not less than 200 square feet per dwelling unit. The required area may be satisfied with one or more of the elements listed below:

(1) Common open space accessible to all residents shall count for up to 100 percent of the required open space. This includes landscaped courtyards or decks, gardens with pathways, children's play areas, or other multipurpose recreational and/or green spaces. Special requirements and recommendations for common spaces include the following:

(a) Space shall be large enough, at least 15 feet by 20 feet, to provide functional leisure or recreational activity area as determined by the director.

(b) Consider open space as a focal point of development.

(c) Open space, particularly children's play areas, shall be visible from dwelling units and be accessible to all units.

(d) Space shall feature paths, plantings, seating, lighting and other pedestrian amenities to make the area more functional and enjoyable.

(e) Common open spaces must be connected to units and entries by pathways.

(f) Open space shall be oriented to receive sunlight, facing east, west, or (preferably) south, when possible.

(g) Required setbacks, landscaping and critical area buffers shall not be counted toward the common open space requirement unless those areas are directly limited to the open space and sustainability contribute to its use and/or visual attractiveness.

(h) Rooftops or rooftop decks shall not be considered as common open space for the purpose of calculating minimum open space area; provided, that the director may consider rooftops or rooftop decks as common open space where usable open space amenities are provided and available to all residents.

(2) The following features may be used to satisfy up to 50 percent of the open space requirement. A combination of these amenities may be provided in different ratios; provided, that (i) the total credit for any combination of the following amenities may not

exceed 50 percent of the open space requirement, and (ii) the amount of the amenity provided is sufficient to achieve the purpose of the amenity as determined by the director:

(a) Individual balconies that provide a space usable for human activity. To qualify, the balconies shall be at least 36 square feet and have no dimension less than six feet.

(b) Natural areas that function as an amenity to the development, subject to the following requirements and recommendations:

(i) The natural area shall be accessible to all residents. For example, safe and attractive trails provided along or through the natural area where they could serve as a major amenity to the development.

(ii) Steep slopes, wetlands, or similar unbuildable areas shall not be counted in the calculations for required open space unless they provide a visual amenity for all units, as determined by the director.

(c) Storm water retention areas if the facility has natural-looking edges, natural vegetation, and no fencing except along the property line. The design of such areas shall go well beyond functional storm water requirements per the director in terms of the area involved and the quality of landscaping and resident amenities. The side slope of the storm water facilities shall not exceed a grade of 1:3 (one vertical to three horizontal) unless slopes are existing, natural, and covered with vegetation.

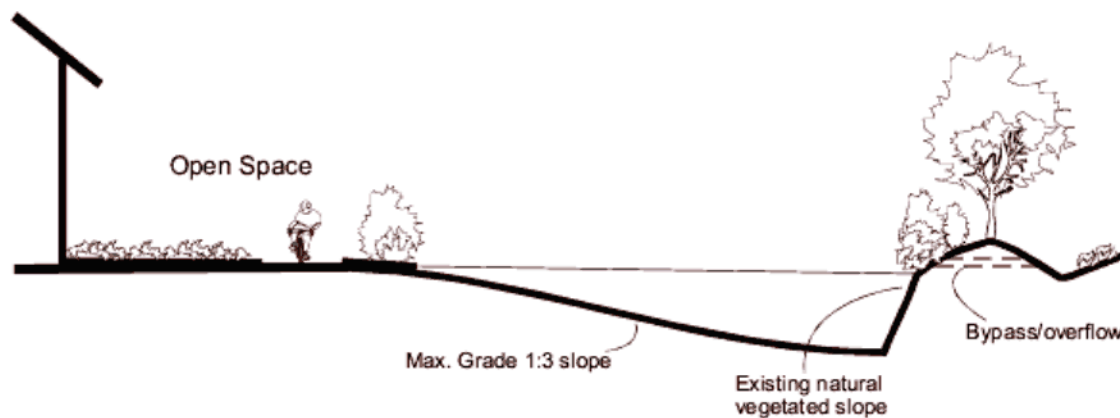


Figure B18. Conditions for storm water to be counted as an amenity.

(3) Children's play equipment and recreational activity space for children and/or teens that include parent seating areas are required in residential complexes with 20 or more units. Exceptions: age-restricted senior citizen housing; mixed use developments; developments reserved for student housing; infill lots within the downtown master plan area; and developments located within a quarter mile of safe walking distance to a public park that features a play area.

(4) Active recreation facilities may be provided instead of common open space, subject to the following:

(a) Active recreation facilities may include, but are not limited to, exercise rooms, sports courts, swimming pools, tennis courts, game rooms, or community centers; and

(b) Indoor recreation areas may be credited towards the total recreation space requirement, when the director determines that such areas are located, designed and improved in a manner which provides recreational opportunities functionally equivalent to those recreational opportunities available outdoors.



*Figure B19– Balconies provide private, usable open space for residents.*



*Figure B20– A residential courtyard providing semi-private patio spaces adjacent to individual units.*

(5) Minimum total open space

In addition to requirements (1) and (2) above, all multifamily development shall include at least 30% of the total lot area as landscaped open space. The landscaped open space shall not include any area used for vehicle circulation or parking, but may include community open space areas, areas in required building setbacks, play areas, natural areas, and critical areas.



*Figure B21 – Children's play area incorporated into a multifamily development.*

## **B.7 Townhouse open space**

(1) Townhouses and other ground based multifamily residential units with individual exterior entries must provide at least 200 square feet of ground related private open space per dwelling unit adjacent to, and directly accessible from, each dwelling unit. This may include private balconies, individual rear yards, landscaped front yards, and covered front porch areas.

(2) Minimum total open space

In addition to the open space requirement in subsection (1) above, all townhouse developments shall include at least 30% of the total development as landscaped open space. The landscaped open space shall not include any area used for vehicle circulation or parking, but may include areas in required building setbacks, play areas, natural areas, and critical areas.



*Figure B22 – Common open space for a townhouse development.*



Figure B23 – Example townhouse configuration with a combination of private open spaces adjacent to units and larger common open space accessible to all units.

## B.8 Maintenance or dedication of open space

- (1) Unless the open space is dedicated to the city pursuant to subsection (2) of this section, maintenance of any open space retained in private ownership shall be the responsibility of the owner or other separate entity capable of long-term maintenance and operation in a manner acceptable to the city.
- (2) Open space may be dedicated as a public park when the following criteria are met:
  - (a) The dedicated area is at least one and one-half acres in size, except when adjacent to an existing or planned public park;
  - (b) The dedicated land provides one or more of the following:
    - (i) Shoreline access;
    - (ii) Regional trail linkages;
    - (iii) Habitat linkages;
    - (iv) Recreation facilities; or
    - (v) Heritage sites;
  - (c) The entire dedicated area is located less than one mile from the project site.
  - (d) Dedication is approved by the Director of Parks, Culture, and Recreation.

## **B.9 On-site recreation – Fee in lieu of open space**

Nothing herein shall prohibit voluntary agreements with the city that allow a payment in lieu of providing on-site open space or recreation space when a proposed development is located within one-quarter mile of an existing or proposed recreational facility; and, in the discretion of the director, the proposed recreation facility will be of greater benefit to the prospective residents of the development.

## **B.10 Storage space and collection points for recyclables**

Developments shall provide storage space for the collection of recyclables as follows:

- (1) The storage space shall be provided at the rate of one and one-half square feet per dwelling unit in multiple-dwelling developments except where the development is participating in a public agency-sponsored or approved direct collection program in which individual recycling bins are used for curbside collection;
- (2) The storage space for residential developments shall be apportioned and located in collection points as follows:
  - (a) The required storage area shall be dispersed in collection points throughout the site when a residential development comprises more than one building.
  - (b) There shall be one collection point for every 30 dwelling units.
  - (c) Collection points may be located within residential buildings, in separate buildings/structures without dwelling units, or outdoors.
  - (d) Collection points located in separate buildings/structures or outdoors shall be no more than 200 feet from a common entrance of a residential building.
  - (e) Collection points shall be located in a manner so that hauling trucks do not obstruct pedestrian or vehicle traffic on-site or project into any public right-of-way.
- (3) The collection points shall be designed as follows:
  - (a) Dimensions of the collection points shall be of sufficient width and depth to enclose containers for recyclables.
  - (b) Architectural design of any structure enclosing an outdoor collection point or any building primarily used to contain a collection point shall be consistent with the design of the primary structure(s) on the site.
  - (c) If signs are used to identify collection points, they shall not exceed 2 square feet.
  - (d) A six-foot wall or fence shall enclose any outdoor collection point.
  - (e) Enclosures for outdoor collection points and buildings used primarily to contain a collection point shall have gate openings and clearances to provide for applicable access by trucks.
  - (f) Weather protection of recyclables shall be ensured by using weather-proof containers or by providing a roof over the storage area.
- (4) Only recyclable materials generated on-site shall be collected and stored at such collection points. Except for initial sorting of recyclables by users, all other processing of such materials shall be conducted off-site.

## **B.11 Fences**

- (1) Purpose. The fence standards promote the positive benefits of fences without negatively affecting the community or endangering public or vehicle safety. Fences can create a sense of privacy, protect children and pets, provide separation from busy streets, and enhance the appearance of property by providing attractive landscape materials. The negative effects of fences can include the creation of street walls that inhibit police and



community surveillance, decrease the sense of community, hinder emergency access and the safe movement of pedestrians and vehicles, and create an unattractive appearance.

(2) Types of Fences.

(a) The standards apply to walls, fences, trellises, arbors and screens of all types whether open, solid, wood, metal, wire, masonry or other material.

(b) No barbed or razor-wire fence shall be permitted, except for the following:

(i) Public facilities, transmitter and transformer sites.

(ii) Government installations where security or public safety is required.

(c) No chain link fence is permitted in the front yard or between the residential building and a public right-of-way. Chain link fence is not permitted adjacent to or within required common open space, except to confine play areas, sports courts, swimming pools, or other facilities where such enclosure is necessary.

(3) Height.

(a) Front lot line: Three feet, unless the director finds that a taller fence is required by code for safety.

(b) Side lot line: Six feet.

(c) Rear lot line: Six feet.

(d) In or adjacent to required common open space: Three feet, unless the director determines that a taller fence is needed for public safety.

(e) The height of a fence or freestanding wall, retaining wall or combination of the same shall be measured from its top surface, board, rail, or wire to the natural elevation of the ground on which it stands.

(f) Where the finished grade is a different elevation on either side of a fence, the height may be measured from the side having the highest elevation.

(4) Fence Exception.

(a) The director shall have authority to administratively grant an exception to the fence requirements outlined in this section. The director is authorized to issue exceptions in cases of special hardships, unique circumstances and practical difficulties. No exception shall be granted which would be detrimental to the public health, welfare or environment.

(b) In considering a request for a modification of the fence requirements outlined in subsections (1) through (3) of this section, the community development director shall consider the following factors:

(i) If the proposed fence is designed and constructed so that it does not cause a public safety hazard by obstructing visibility of pedestrians or motorists using streets, driveways or sidewalks;

(ii) The proposed fence will not infringe upon or interfere with utility and/or access easements or covenant rights or responsibilities;

(iii) The increased fence height will not adversely affect adjacent property owners or reduce visibility of the property from the street.

## B.12 Street Connectivity

The Lakewood Neighborhood Master Plan places a high priority on being a “walkable” and accessible community. Frequent and attractive connections between destinations through a well-connected system of streets and pathways are required.

(1) Connectivity to abutting lands. The street system of proposed development shall be designed to connect with existing, proposed, and planned streets outside of the development. Wherever a proposed development abuts unplatted land or other land with the capability of being further subdivided, street stubs shall be provided to allow access to future abutting subdivisions and to logically extend the street system into the surrounding area. All street stubs shall be provided with a temporary turn-around unless specifically exempted by the fire marshall, and the restoration and extension of the street shall be the responsibility of any future developer of the abutting land.

(2) Continuation of streets. Planned streets shall connect with surrounding streets to permit the convenient movement of traffic between residential neighborhoods and to facilitate emergency access and evacuation. Connections shall be designed to meet or exceed the block standards in subsections (3) below, and to avoid or minimize through traffic on local streets.

(3) Block size. New development shall provide an integrated and connected network of streets to provide "direct" walking route options, orientation, a sense of place, and multiple travel route options. A street network dominated by long, irregular loop roads and cul-de-sacs is not appropriate. Blocks shall be designed to provide vehicular connections at intervals no greater than 600 feet and pedestrian access at intervals no greater than 300 feet (200 feet is preferred).

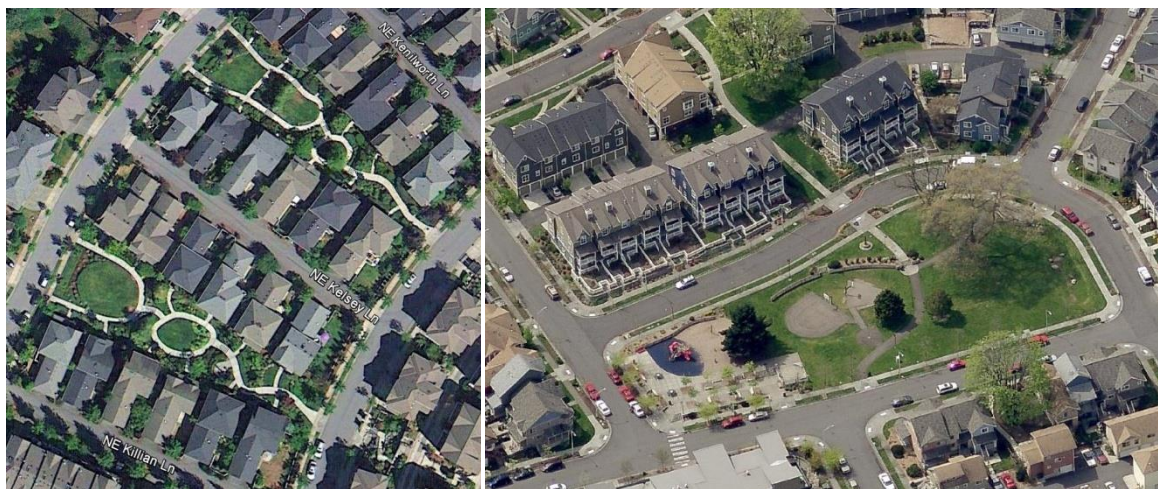


Figure B24. Examples of appropriately scaled blocks that accommodate pedestrian connections no further apart than 300 feet.

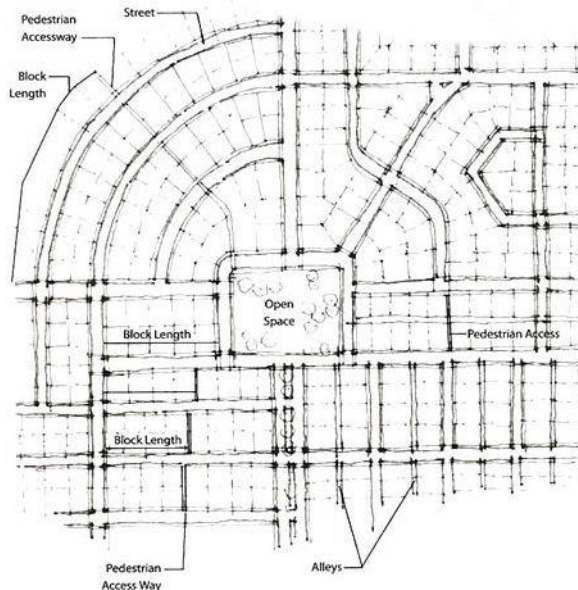


Figure B25. Example of well-connected street network. Note that the "block lengths" show how street and pedestrian path intervals are measured.

(4) Relationship between neighborhoods. "Gated communities" and other developments designed to appear as continuous walled-off areas disconnected and isolated from the rest of the community are prohibited. While privacy fences separating rear yards between homes are desirable for privacy, tall fences that back up to streets, reduce the number of "eyes on the street," and make such streets feel less safe and welcoming are prohibited. New subdivisions should consider ways to integrate into the community rather than walling them off.

### **B.13 Service Areas and Mechanical Equipment**

(1) Service Element Location and Design. All development shall provide a designated spot for service elements. Such elements shall meet the following requirements:

(a) Service areas (trash dumpsters, compactors, recycling areas, electrical panels, and mechanical equipment areas) shall be located to avoid negative visual, auditory (noise), olfactory, or physical impacts on the street environment and adjacent residentially zoned properties. The City may require evidence that such elements will not significantly impact neighboring properties or public areas. (For example, the City may require noise damping specifications for fans near residential zones.)

(b) Service areas must not be visible from the sidewalk and adjacent properties. Where the City finds that the only option for locating a service area is either visible from a public right-of-way or space or from an adjacent property, the area must be screened with either landscape or structural screening measures provided in [MMC Chapter 22C.120 Landscaping and Screening](#).

(c) The designated spot for service elements shall be paved with concrete.

(d) Appropriate enclosure of the common trash and recycling elements shall be required, as determined by the Director. Requirements and considerations:

(i) A 6-foot fence constructed of concrete block or brick enclosing trash and recycling receptacles is required. Coordination with the current franchise hauler is required. The sides and rear of the enclosure must be screened with L1, L2, L3, or L4 landscaping (as defined in [MMC 22C.120.110](#)) at least 5 feet deep in visible locations as determined by the Director to soften the views of the screening element and add visual interest.

(ii) Proximity to adjacent residential units will be a key factor in determining appropriate service element treatment.

(iii) Preferably, service enclosures are integrated into the building itself.

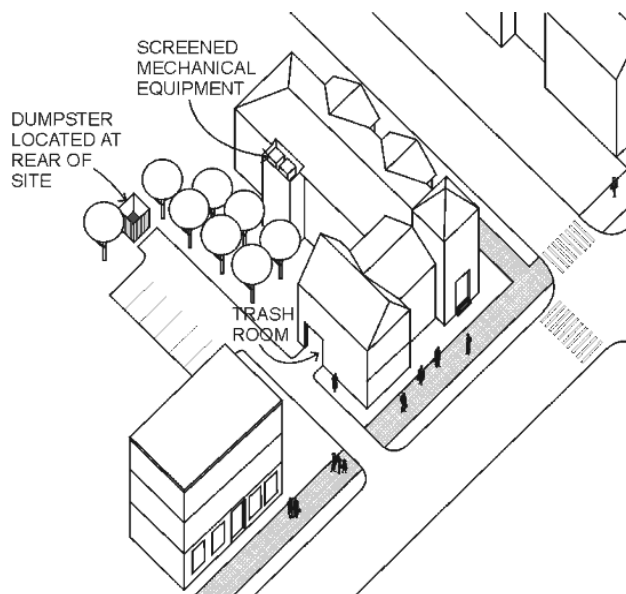


Figure B26. Locate service elements to reduce impacts on the residential and pedestrian environment.

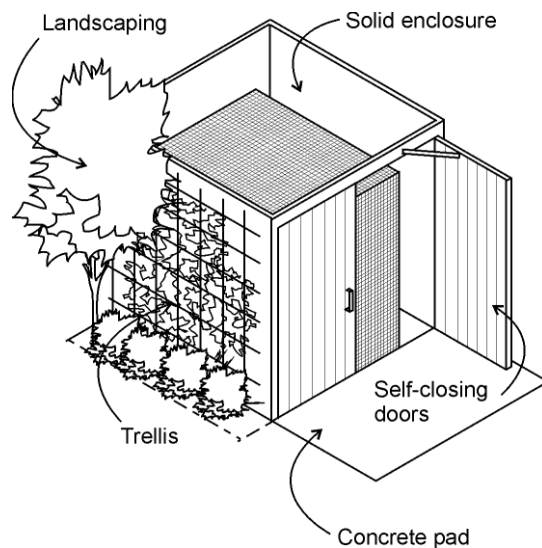


Figure B27. Trash receptacle and recyclables screening example

(2) Utility Meters, Electrical Conduit, and Other Service Utility Apparatus. These elements shall be located and/or designed to minimize their visibility to the public. If such elements are mounted in a location visible from the street, pedestrian pathway, common open space, or shared auto courtyards, they shall be screened with vegetation or by architectural features.



Figure B28. Exposed utility meters like this will not be allowed.



Figure B29. Landscaping helps to minimize the negative visual impacts of utility meters.

(3) Roof mounted mechanical equipment must be located and screened by a parapet, or other primary building element, so the equipment is not visible within 150 feet of the structure when viewed from the ground level of adjacent properties. Match the color of roof mounted equipment with the exposed color of the roof to minimize visual impacts when equipment is visible from higher elevations nearby.

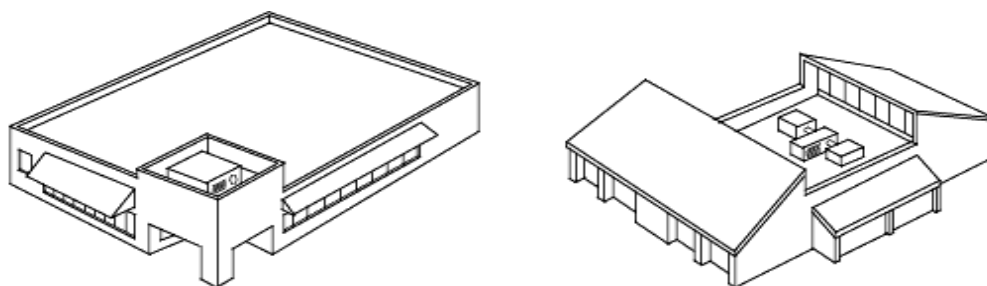


Figure B30. Examples of how to screen roof-mounted mechanical equipment.

(4) Locate and/or shield noise producing mechanical equipment such as fans, heat pumps, etc so that noise reaching the adjacent properties is less than 50 dBA. If required by the Director, the applicant must demonstrate that this standard is achieved by providing equipment specifications and/or calculations of noise impacts.

## **B.14 Nonconforming situations**

Existing developments that do not conform to the development standards of this chapter are subject to the standards of [MMC Chapter 22C.100, Nonconforming Situations](#).

## **B.15 Parking and loading**

The standards pertaining to the required number of auto parking spaces, bicycle parking spaces, parking lot placement, parking lot setbacks and internal parking lot pedestrian connections are stated in [MMC Chapter 22C.130, Parking and Loading](#).

## **B.16 Signs**

The sign standards are stated in [MMC Chapter 22C.160, Signs](#).

## **B.17 Landscaping and screening**

The landscaping and screening standards are stated in [MMC Chapter 22C.120, Landscaping and Screening](#).

## **B.18 Planned residential developments**

See [MMC Chapter 22G.080, Planned Residential Developments](#).

## C. Commercial, Mixed-Use and Public Institutional Zones

### C.1 Site and building design standards

(1) Applicability.

(a) Prior to submitting a building permit application, all development to which these standards apply shall be required to submit a site plan and elevations addressing the standards in this section for administrative review and approval by the community development director.

(b) The site and building design standards of this section apply to institutional and commercial development.

(2) Relationship and Orientation of Buildings to Site and Street Front.

(a) The site shall be planned to create an attractive street edge and accommodate pedestrian access. Examples of ways that a development meets the requirements of this provision are to:

(i) Define the street edge with buildings, landscaping or other features (see Figure C1).

(ii) Provide for building entrances that are visible from the street.

(iii) Provide a sidewalk at least six feet wide, or as approved by the City Engineer, if there is not space in the public right-of-way.

(iv) Provide building entries that are accessed from the sidewalk. These access ways must be separated from the parking and drive aisles. If access traverses the parking lot, then it should be raised and/or clearly marked while accommodating green stormwater infrastructure.

(b) The development shall create a well-defined streetscape to allow for the safe movement of pedestrians. New development must provide sidewalks as identified in the Lakewood Neighborhood Master Plan, or otherwise approved by the City Engineer, and street trees, at least 2-inch caliper with spacing averaging no more than 30 feet on center, as approved by the director.

(c) Commercial and mixed use buildings must be oriented towards at least one street. For sites that front multiple streets, commercial and mixed use buildings are encouraged to orient towards both streets; provided, that priority shall be given to pedestrian-oriented streets, as designated in Figure X, and to streets that are more visible and/or provide a better opportunity for increased pedestrian activity.

(d) Commercial and mixed use building facades facing the street or parking lots must have transparent windows or door covering at least 75 percent of the ground floor facade between four to eight feet above the level of the sidewalk. Exceptions may be considered by the director; provided that the proposed building configuration and design enhances the pedestrian environment.

(e) No parking spaces may be located between the building's façade and any designated pedestrian-oriented street (as identified in the Lakewood Neighborhood Master Plan), or when the building is not sited on a pedestrian-oriented street, located between the building's facade and the primary public street (street from which primary access is obtained) unless it is not feasible due to parcel size, topography, environmental conditions, or other factors as determined by the director. Where the property fronts on more than one public street, this provision applies to only one street frontage.

(f) Parking lots may not be located on corner locations adjacent to public streets unless no feasible on-site alternative exists.

(g) For large commercial and mixed use sites (over two acres) that feature multiple buildings, developments shall configure buildings to create focal points for pedestrian activity on the site. However, no more than 50 percent of the street frontage may be occupied by vehicular access or parking. Exceptions: An increased percentage of

parking or vehicular access along the street front may be allowed where the configuration allows the development to better meet the intent of these standards. For example, if the configuration allows for a centralized plaza surrounded by a concentration of retail uses, an increase in the percentage of parking along the street front would be allowed. Exceptions are subject to approval by the director.



Figure C1 – Examples of buildings that provide a well-defined streetscape.

(h) Pedestrian Circulation Where Facades Face Parking Areas.

Building entrances must face the street in the MU zones and on designated pedestrian-oriented streets. In the GC and CB zones where a building's main commercial entrance faces onto a parking area rather than the street, provide wide pathways adjacent to the façades of retail and mixed-use buildings. Pathways along the front façade of mixed-use and retail buildings 100 feet or more in length (measured along the façade) that are not located adjacent to a street must be at least 12 feet wide with 8 feet minimum unobstructed width and include the following:

(i) Trees, as approved by the Director, must be placed at an average of 30 feet on-center and placed in grates. Breaks in the tree coverage will be allowed near major building entries to enhance visibility. However, no less than 1 tree per 60 lineal feet of building façade must be provided.

(ii) Street tree pit may be included in a planting strip, provided the strip does not impede pedestrian movement and has at least 8 feet of clearance.

(iii) If the pits are not in a planted strip, tree grates shall be provided at each pit and at least 24 square feet of pavers or porous pavements situated around the pits to allow air and water into the tree root space (see subsection (4)(b) of this section related to planting strips).

(iv). Lighting (3)(d) of this section.

must conform to subsection





Figure C2. Example of a successful pedestrian sidewalk between parking lot and storefront.

(i) Pedestrian-Oriented Facades

(i) Commercial and mixed use buildings facing pedestrian-oriented streets indicated in Figure xx shall front directly on the back of sidewalk or a pedestrian-oriented space adjacent to the sidewalk and adhere to the following standards.

(A) Ground floor facades shall feature transparent window areas over at least 75 percent of the ground floor façade between 2 feet and 8 feet above grade. The windows may look into the building's interior or be configured as merchandise display windows. The building must be designed so that the windows satisfying the requirement for "pedestrian-oriented facades" do not look into service or storage areas or other unsightly rooms.

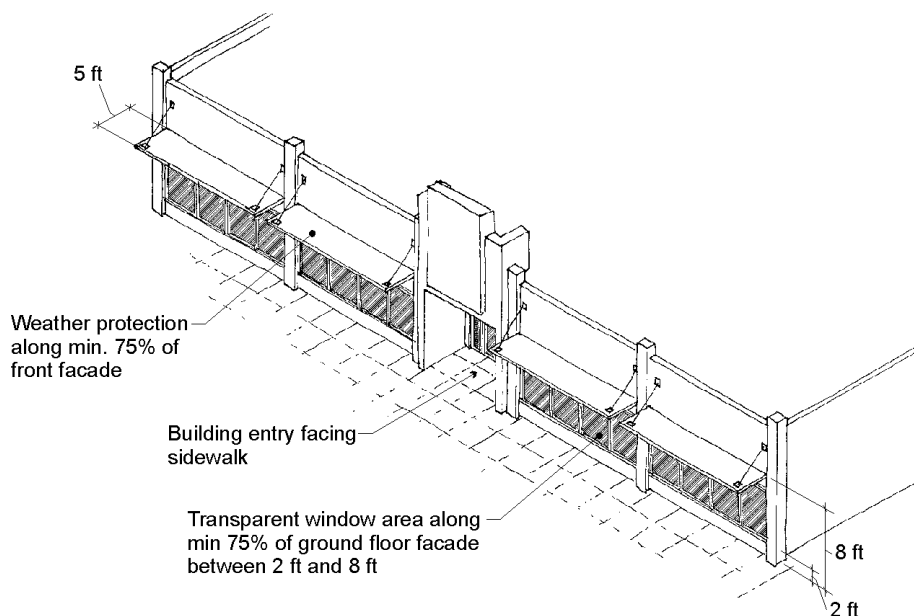


Figure C3. An example of a pedestrian-oriented façade.

(B) A primary building entry facing the streetfront. (see subsection (j) of this section for entry enhancement requirements.)

(C) Weather protection at least 5 feet wide over at least 65 percent of the front facade.

(j) Pedestrian Weather Protection

In addition to weather protection along pedestrian-oriented facades, provide pedestrian weather protection in the front of commercial and mixed-use buildings fronting on parking areas serving that building, public spaces such as transit stops, building entries, along display windows, specifically:

(i) Weather protection at least six feet deep is required over the entries of all primary building, individual business, and individual residence. This may include a recessed entry, canopy, porch, marquee, or building overhang.



Figure C4. Provide weather protection over building entries.

(ii) Canopies, awnings, or other similar weather protection features shall not be higher than 15 feet above the ground elevation at the highest point or lower than 8 feet at the lowest point.

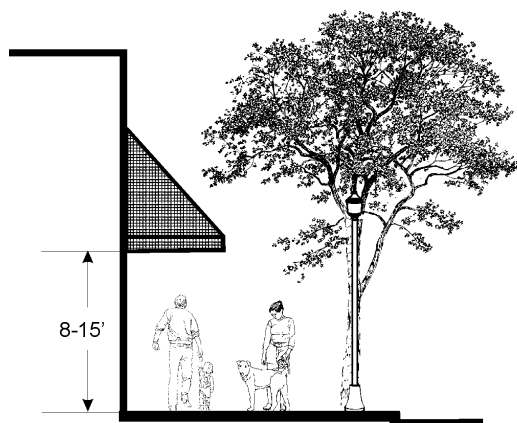


Figure C5. Height standards for weather protection features.

(iii) The color, material, and configuration of the pedestrian coverings shall be as approved by the Director. Coverings with visible corrugated metal or corrugated fiberglass are not permitted unless approved by the Director. Fabric and rigid metal awnings are acceptable.

(iv) Multi-tenant retail buildings are encouraged to use a variety of weather protection features to emphasize individual storefronts and reduce the architectural scale of the building. Figure C6 provides unacceptable and better examples.



Figure C6. The continuous canopy on top is monotonous and deemphasizes individual storefronts. The bottom example provides a variety of weather protection features and represents a more desirable example.

(3) Relationship of Buildings and Site to Adjoining Area. The development of new buildings should address impacts to neighborhood condition by complying to the following:

(a) Attractive landscape transition to adjoining properties shall be provided as directed by the director.

(b) Solar access of the subject and adjacent properties should be considered in building design and location. The director may require adjustments of the proposed site layout or special screening measures to accomplish this objective.

(4) Landscape and Site Treatment.

(a) Parking lot screening and interior landscaping shall be provided consistent with [MMC Chapter 22C.120](#). The following criteria shall guide review of plans and administration of the landscaping standards in the zoning code:

(i) The landscape plan shall demonstrate visual screening from parking areas.

(ii) The landscape plan shall provide some physical separation between vehicular and pedestrian traffic.

(iii) Where feasible, the landscape plan shall integrate natural approaches to storm water management, including featured low impact development techniques.

(iv) In locations where plants will be susceptible to injury by pedestrian or motor traffic, they shall be protected by appropriate curbs, tree guards or other devices.

(v) Screening of outdoor service yards and other places which tend to be unsightly shall be accomplished by use of walls, fencing, planting, berms or combinations of these.

(vi) Landscaping should be designed to create definition between public and private spaces.

(vii) Where feasible, the landscape plan shall coordinate the selection of plant material to provide a succession of blooms, seasonal color, and a variety of textures.

(viii) The landscape plan shall provide a transition in landscaping design between adjacent sites, within a site, and from native vegetation areas in order to achieve greater continuity.

(ix) The landscape plan shall use plantings to highlight significant site features and to define the function of the site, including parking, circulation, entries, and open spaces.

(b) Street Landscaping. Where the site plan includes streetscape plantings, the following guidelines apply:

(i) Sidewalks and pathways should be separated from the roadway by planting strips with street trees wherever possible. Where there is on-street parking, provide an 18" wide strip of pavement directly on the back of the curb to accommodate entry and exit from parked cars.

(ii) Planting strips should generally be at least five feet in width. Evergreen shrubs should be no more than four feet in height and/or ground cover in accordance with the City of Marysville landscape standards ([MMC Chapter 22C.120](#)) and Marysville administrative landscaping guidelines.

(iii) Street trees placed in tree grates may be more desirable than planting strips in pedestrian areas where space is limited. Tree pits or planting areas that provide water for roots shall be at least 24 square feet in area.

(iv) Use of trees and other plantings with special qualities (e.g., spring flowers and/or good fall color) are strongly encouraged.

(v) Unless otherwise directed by the director, plant at least one street tree per 30 linear feet of street front.

(c) Plaza/Pedestrian Area Landscaping Within Shopping Centers and Mixed Use Site Plans.

(i) A range of landscape materials – trees, evergreen shrubs, ground covers, and seasonal flowers – shall be provided for color and visual interest.

(ii) Planters or large pots with small shrubs and seasonal flowers may be used to create protected areas within the plaza for sitting and people watching.

(iii) Creative use of plant materials, such as climbing vines or trellises, and use of sculpture groupings or similar treatments are encouraged.

(iv) All landscaping plans shall be submitted during site plan review for approval.

(v) Also see Section C.4 Non-Residential Open Space Requirements.

(d) Exterior lighting shall be part of the architectural concept. Lighting shall enhance the building design and adjoining landscaping. Appropriate lighting levels shall be provided in all areas used by pedestrians or automobiles, including building entries, walkways, parking areas, circulation areas, and other open space areas, in order to ensure safety and security; enhance and encourage evening activities; and provide a distinctive character to the area. New developments shall provide a lighting site plan which identifies lighting equipment, locations and standards, and implements the following design standards:

(i) All public areas shall be lighted with average minimum and maximum levels as follows:

(A) Minimum (for low or nonpedestrian and vehicular traffic areas) of one-half foot candle;

(B) Moderate (for moderate or high volume pedestrian areas) of one to two foot candles; and

(C) Maximum (for high volume pedestrian areas and building entries) of four foot candles.

(ii) Lighting shall be provided at consistent levels, with gradual transitions between maximum and minimum levels of lighting and between lit areas and unlit areas. Highly contrasting pools of light and dark areas shall be avoided.

(iii) Parking lot lighting shall be subject to the provisions set forth in [MMC 22C.130.050\(3\)\(d\)](#).

(iv) Pedestrian-scale lighting (light fixtures no taller than 15 feet) is encouraged in areas with high anticipated pedestrian activity. All fixtures over 15 feet in height shall be fitted with a full cut-off shield, be dark sky rated, and mounted no more than 25 feet above the ground with lower fixtures preferable so as to maintain a human scale. Lighting shall enable pedestrians to identify a face 45 feet away in order to promote safety.

(v) Light levels at the property line should not exceed 0.1 foot candles (fc) adjacent to business properties, and 0.05 foot candles adjacent to residential properties.

All building lights shall be directed onto the building itself and/or the ground immediately adjacent to it. The light emissions should not be visible above the roofline of the building. Light fixtures other than traditional cobra heads are encouraged.

(vi) Limited on trees and provisions for seasonal lighting is acceptable.

(vii) Limited accent lighting on architectural and landscape features is encouraged to add interest and focal points.

(e) Also see Section C.4 Non-Residential Open Space Requirements.

(5) Site Design Utilizing Crime Prevention through Environmental Design (CPTED) Principles. Development that is subject to this section shall incorporate the following CPTED strategies into building design and site layout:

(a) Access Control. Guidance of people coming and going from a building or site by placement of real and perceived barriers. Provision of natural access control limits access and increases natural surveillance to restrict criminal intrusion, especially into areas that are not readily observable.

(b) Surveillance. Placement of features, uses, activities, and people to maximize visibility. Provision of natural surveillance helps to create environments where there is plenty of opportunity for people engaged in their normal behavior to observe the space around them.

(c) Territoriality/Ownership. Delineation of private space from semi-public and public spaces that creates a sense of ownership. Techniques that reduce the perception of areas as "ownerless" and, therefore, available for undesirable uses. Examples of ways in which a proposal can comply with CPTED principles are outlined in the CPTED Guidelines for Project Design and Review, prepared by the city.

(6) Building Design – Human-Scale Standards. The human-scale standards are intended to encourage the use of building components that relate to the size of the human body and to add visual interest to buildings. "Human scale" addresses the relationship between a building and the human body. Generally, buildings attain a good human scale when they feature elements or characteristics that are sized to fit human activities, such as doors, porches, and balconies. A minimum of four of the following human-scale building elements shall be incorporated into the new development:

(a) Balconies in upper stories, at least one balcony per upper floor on the facades facing streets, provided they are integrated into the architecture of the building;

(b) Bay windows or other window treatments that extend out from the building face;

(c) At least 150 square feet of pedestrian-oriented space (see section C.5 Residential Open Space and Recreation Space Required) for each 100 lineal feet of building facade;

(d) Upper floor individual windows, generally less than 32 square feet per pane and separated from the windows by at least a six-inch molding;

- (e) Spatially defining building elements, such as a trellis, overhang, canopy, or other element, that defines space that can be occupied by people;
- (f) Ground floor brick facades;
- (g) Smaller building elements near the entry of pedestrian-oriented street fronts of large buildings (see Figure C9);
- (h) Special details near the entrance, such as downtown lighting, artworks, or special materials;
- (i) The director may consider other methods to provide human-scale elements not specifically listed here. The proposed methods must satisfy the intent of these standards.

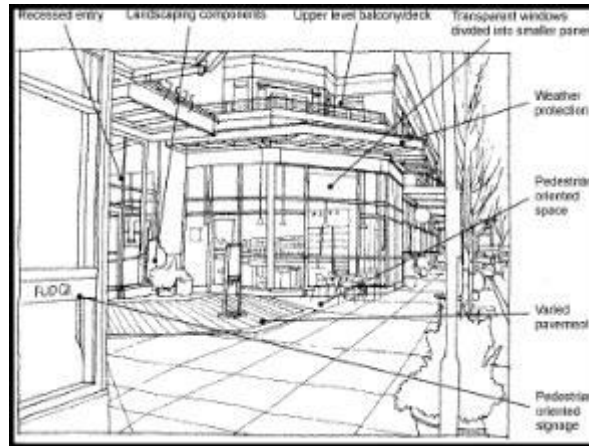


Figure C7 – Illustrating a variety of human-scale components on a building.



Figure C8 – This mixed use building incorporates decks, upper level setbacks, trellises, and landscaping to meet human-scale guidelines.



Figure C9 – Example of smaller building elements near the entry of large buildings.

(7) Building Design – Architectural Scale. Note:

- **Architectural scale** is the perceived height and bulk of a building relative to that of neighboring buildings. A building has “good architectural scale” if its visual size is relatively similar to its neighbors.
- **Modulation** is a stepping back or projecting forward of portions of a building face, within specified intervals of building width and depth, as a means of breaking up the apparent bulk of a structure’s continuous exterior walls.
- **Articulation** is visually breaking up a building façade into intervals by including repetitive features, such as broken rooflines, chimneys, entrances, distinctive window patterns, street trees, and modulation.

(a) All new buildings over three stories or over 5,000 square feet in gross building footprint or with facades longer than 100 feet measured horizontally shall provide at least three modulation and/or articulation features as described below along any façade that is visible from a street, residential zone or pedestrian pathway. In addition, there must be an entry at least every 60 feet:

(b) Horizontal building modulation. The depth of the modulation must be at least 2 feet when tied to a change in the roofline and at least 5 feet in other situations. Balconies may be used to qualify for this option, provided they have a floor area of at least 40 square feet, are integrated with the architecture of the building, and project at least 2 feet from the building façade.



*Figure C10. Mixed-use building with modulation to increase its interest and human scale.*

(c) Modulated roof line. Buildings may qualify for this option by modulating the roof line of all façades visible from a street, park, or pedestrian pathway consistent with the following standards:

(i) For flat roofs or façades with a horizontal fascia or parapet, change the roofline so that no un-modulated segment of roof exceeds 60 feet. Minimum vertical dimension of roof line modulation is the greater of 2 feet or 0.1 multiplied by the wall height (finish grade to top of wall);

(ii) For gable, hipped, or shed roofs, a slope of at least 3 feet vertical to 12 feet horizontal; or

(iii) Other roof forms such as arched, vaulted, dormer, or saw-toothed may satisfy this design standard if the individual segments of the roof with no change in slope or discontinuity are less than 60 feet in width (measured horizontally).

(d) Repeating distinctive window patterns at intervals less than the articulation interval.

(e) Providing a porch, patio, deck, or covered entry for each articulation interval.

(f) Changing the roofline by alternating dormers, stepped roofs, gables, or changing roof textures on certain features such as metal roofs on towers and dormers to reinforce the modulation or articulation interval.

(g) Changing materials with a change in building plane.



(h) Providing lighting fixtures, trellises, trees, or other landscape feature within each interval.

(i) The Director may increase or decrease the 60-foot interval for modulation and articulation to better match surrounding structures or to implement an adopted subarea plan.



*Figure C11. Example of a well-articulated building. Note how the awnings, window divisions, pilasters columns and cornice line all serve to divide up the façade into smaller segments without disrupting the unity of the overall design.*



*Figure C12. This development uses a variety of roof forms and heights and variations in roof textures by using metal hip roofs, different weather protection features, changing building materials and colors, and a modest amount of horizontal building modulation to reduce the overall architectural scale into smaller "storefront" components.*



Figure C13 – Good examples of prominent pedestrian entries for large-scale retail uses. Note height change, vertical modulation, use of building materials, colors, and detailing to add interest and emphasis.

(8) Building Corners. The building corners standards are intended to architecturally accentuate building corners at street intersections, to create visual interest, and to increase activity, where appropriate. All new buildings located within 15 feet of a property line at the intersection of streets are required to employ one or more of the following design elements or treatments to the building corner facing the intersection:

(a) Provide at least 100 square feet of pedestrian-oriented space between the street corner and the building(s). To qualify for this option, the building(s) must have direct access to the space;

(b) Provide a corner entrance to building lobby, atrium, pedestrian pathway, or interior court.

(c) Include a corner architectural element such as:

(i) Bay window or turret.

(ii) Roof deck or balconies on upper stories.

(iii) Building corner setback "notch" or curved facade surfaces.

(iv) Sculpture or artwork, either bas-relief, figurative, or distinctive use of

materials.

(v) Change of materials.

(vi) Corner windows.

(vii) Special lighting.

(d) Special treatment of the pedestrian weather protection canopy at the corner of the building; and/or

(e) Other similar treatment or element approved by the director.

(f) Parking lots are not allowed directly fronting the intersection of two streets.

The director may allow exceptions where no other site configuration is possible.

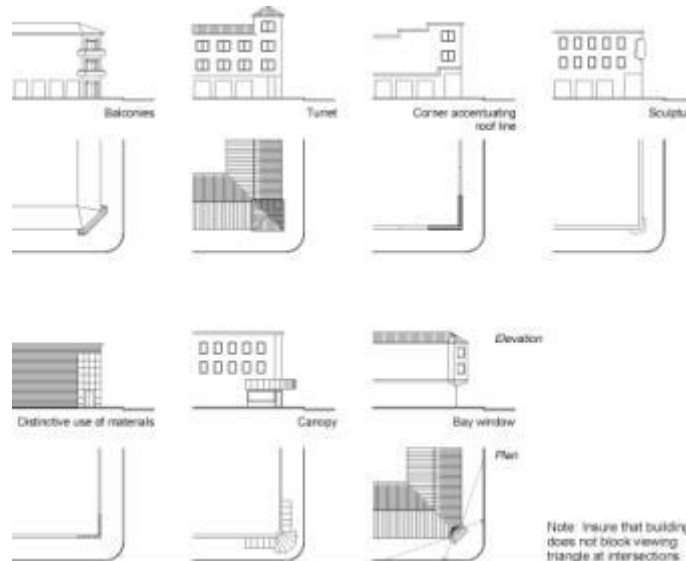


Figure C14 – Corner building treatment.



Figure C15 – Decorative use of windows, change of materials, and special lighting creates a statement at this corner location.

(9) Building Design Details. The building design details standards are intended to ensure that buildings have design interest at all observable distances; to enhance the character and identity of the city; and to encourage creative design. At closer distances, the most important aspects of a building are its design details, texture of materials, quality of its finishes, and small, decorative elements. All new commercial buildings and individual storefronts shall include at least one detail element from each of the three categories below. Other mixtures of detail elements will be considered provided they meet the intent of these standards. The applicant must demonstrate how the amount, type, and mix of details meet the intent of these standards. For example, a large building with multiple storefronts will likely need more than one decorative sign, transom window, and decorative kickplate to meet the intent of these standards.

Building details used to meet this standard may also be used to satisfy other applicable requirements, such as for (6) Building Design-Human Scale Standards.

(a) Window and/or Entry Treatment. Special treatment of windows and doors, other than standard metal molding/framing details, around all ground floor windows and doors, decorative glazing, or door designs.

- (i) Display windows divided into a grid of multiple panes.
- (ii) Transom windows.
- (iii) Roll-up windows/doors.
- (iv) Other distinctive window treatment that meets the intent of the standards and guidelines.
- (v) Recessed entry.
- (vi) Distinctive door.
- (vii) Arcade.
- (viii) Landscaped trellises or other decorative element that incorporates landscaping near the building entry.
- (ix) Other decorative entry treatment that meets the intent of these standards.

(b) Distinct facade attachments:

- (i) Weather protection element such as a steel canopy, decorative cloth awning, or retractable awning.
- (ii) Custom hanging, sculptural, or hand-crafted sign(s).
- (iii) Building-mounted light fixtures with a diffuse visible light source or unusual fixture.
- (iv) Special railings, grill work, or landscape guards.

(c) Building materials and other facade elements:

- (i) Use of distinctive building materials such as decorative masonry, shingle, tile, brick, or stone.
- (ii) Individualized patterns or continuous wood details, such as fancy butt shingles (a shingle with the butt end machined in some pattern, typically to form geometric designs), decorative moldings, brackets, trim or lattice work, ceramic tile, stone, glass block, carrera glass, or similar materials. The applicant must submit architectural drawings and material samples for approval.
- (iii) Varied rooflines, such as an ornamental molding, entablature, frieze, or other roofline device visible from the ground level. If the roofline decoration is in the form of a linear molding or board, then the molding or board must be at least eight inches wide.
- (iv) Artwork on the building such as a mosaic mural, bas-relief sculpture, light sculpture, water sculpture, or other similar artwork. Painted murals or graphics on signs or awnings do not qualify.
- (v) Kickplate, pier, belt course, or other similar facade element.
- (vi) Special building elements, such as pilasters, entablatures, wainscots, canopies, or marquees, that exhibit nonstandard designs.
- (vii) Other details that meet the intent of the standards and guidelines as determined by the director.
- (viii) Elements referenced above must be distinct "one-of-a-kind" elements or unusual designs that require a high level of craftsmanship as determined by the director.



*Figure C16 – The building provides a number of details that enhance the pedestrian environment, including decorative lighting, planter boxes, decorative awnings, historical plaques, and decorative facade elements.*

(10) **Building Materials.** The building materials standards are intended to encourage the use of a variety of high-quality, durable materials that will enhance the visual image of the city; provide visual interest and distinct design qualities; and promote compatibility and improvement within surrounding neighborhoods through effective architectural detailing and the use of traditional building techniques and materials. The following standards apply:

(a) Building exteriors shall be constructed from high-quality, durable materials. Building materials such as concrete, masonry, tile, stone and wood are encouraged.

(b) Metal siding, when used for walls that are visible from a public street, public park or open space, pathway, or pedestrian route must:

(i) Have visible corner moldings and trim and incorporate masonry, stone, or other durable permanent materials within two feet of the ground level;

(ii) Incorporate multiple siding materials or façade articulation (see subsection (7) Building Design – Architectural Scale) when the facade is wider than 40 feet;

(iii) Alternative standards may be approved by the director; provided, that the design quality and permanence meet the intent of this section.

(c) Concrete masonry units (CMU) or cinder block walls, when used for walls that are visible from a street, public park or open space, or pedestrian route, shall be architecturally treated in one or more of the following ways:

(i) Use in conjunction with other permitted exterior materials.

(ii) Use of a combination of textured surfaces such as split face or grooved to create distinct banding or other design.

(iii) Use of other masonry types, such as brick, glass block, or tile in conjunction with concrete blocks.

(iv) Use of decorative coursing to break up blank wall areas.

(v) Use of matching colored mortar where color is an element of architectural treatment for any of the options above.

(vi) Other treatment approved by the director.

- (d) Exterior insulation and finish system (EIFS) and similar troweled finishes must:
- (i) Be trimmed in wood or masonry, and should be sheltered from extreme weather by roof overhangs or other methods in order to avoid deterioration. Weather-exposed horizontal surfaces must be avoided.
  - (ii) Be limited to no more than 50 percent of the facade area.
  - (iii) Incorporate masonry, stone, or other durable material for the first two feet above ground level.
- (e) Prohibited materials in visible locations unless an exception is granted by the director based on the integration of the material into the overall design of the structure:
- (i) Highly tinted or mirrored glass (except stained glass) covering more than 10 percent of the exterior of any building, or located at the ground level along the street.
  - (ii) Corrugated fiberglass.
  - (iii) Plywood siding, including T-111 and similar siding. Board and batten is an exception.
  - (iv) Noncorrugated and highly reflective sheet metal.
  - (v) Any sheet materials, such as wood or metal siding, with exposed edges or unfinished edges, or made of nondurable materials as determined by the director.
  - (vi) Chain link fencing.

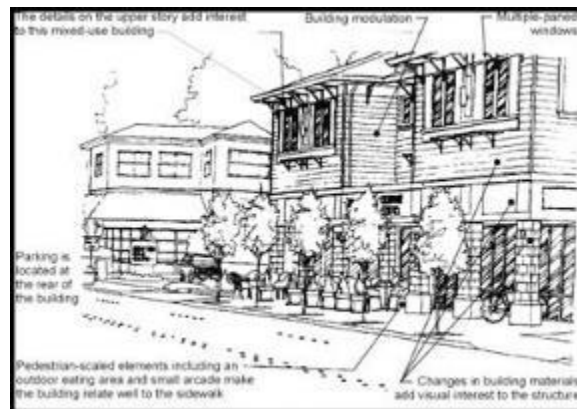


Figure C17 – The use of different building materials, window treatments, and roofline brackets add to the visual interest of this building.



*Figure C18– This storefront effectively combines EIFS and concrete block with wood trim and metal detailing.*

(11) Blank Walls.

(a) The blank wall standards are intended to: reduce the visual impact of large, undifferentiated walls; reduce the apparent size of large walls through the use of various architectural and landscaping treatments; enhance the character and identity of the city; and ensure that all visible sides of buildings provide visual interest. Blank walls visible from a public street, sidewalk, trail, interior pathway, or parking lot are prohibited. A wall (including building facades and other exterior building walls, retaining walls, and fences) is defined as a blank wall if:

(i) A ground floor wall or portion of a ground floor wall over four feet in height has a horizontal length greater than 15 feet and does not include a transparent window or door; or

(ii) Any portion of a ground floor wall having a surface area of 400 square feet or greater does not include a transparent window or door.

(b) All blank walls visible from a public street, sidewalk, trail, interior pathway, or parking lot shall be treated in one or more of the following measures:

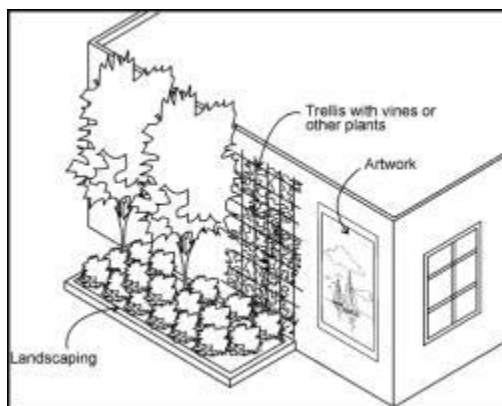
(i) Incorporate transparent windows or doors and/or display windows;

(ii) Install a vertical trellis in front of the wall with climbing vines or plant materials sufficient to obscure or screen at least 60 percent of the wall's surface within three years. For large blank wall areas, the trellis must be used in conjunction with other treatments described below;

(iii) Provide a landscaped planting bed at least five feet wide or a raised planter bed at least two feet high and three feet wide in front of the wall. Plant materials must be able to obscure or screen at least 60 percent of the wall's surface within three years;

(iv) Provide artwork (mosaic, mural, sculpture, relief, etc.) over at least 50 percent of the blank wall surface; and/or

(v) Other method as approved by the director. For example, landscaping or other treatments may not be necessary on a wall that employs high-quality building materials (such as brick) and provides desirable visual interest.



*Figure C19 – Blank wall treatments.*



*Figure C20 – Terraced planting beds effectively screen a large blank wall.*

(12) **Building Entrances.** The intent of the building entrances standards is to ensure that buildings are inviting and accessible, that entrances are easy to locate, and that pedestrian activity is encouraged.

(a) **Primary Building Entrances.** The principal building entrances of all buildings shall feature the following improvements, unless the director determines an alternate solution better addresses the guideline's intent:

(i) **Weather Protection.** Weather protection at least five feet deep and at least eight feet above ground level is required over the primary entrance to all commercial buildings. Entries may satisfy this requirement by being set back into the building facade.

(ii) **Lighting.** Pedestrian entrances must be lit to at least three foot candles but not more than four foot candles as measured on the ground plane for commercial buildings.

(iii) **Visibility and Accessibility.** Building entrances must be prominent and visible from the surrounding streets and must be connected by a walkway to the public sidewalk. Pedestrian pathways from public sidewalks to primary entrances or from parking lots to primary entrances shall be accessible, conforming to federal and state Americans with Disabilities Act requirements, and shall be clearly delineated.

(iv) **Transparency.** Entries must feature glass doors, windows, or glazing (window area) near the door so that the visitor and occupant can view people opening the door from the other side.



*Figure C21– A distinct, weather-protected primary building entrance.*



(b) Secondary Public Access for Commercial Buildings. Buildings with "secondary" entrances off of a parking lot shall comply with the following measures to enhance secondary public access (applies only to entries used by the public):

- (i) Weather protection at least three feet deep and at least eight feet above the ground is required over each secondary entry.
- (ii) Two or more of the design elements must be incorporated within or adjacent to the secondary entry:
  - (A) A transparent window or door to allow visibility into the building;
  - (B) A landscape bed, trellis, or other permanent landscape element adjacent to the entry;
  - (C) Architectural treatments that add visual interest to the entry;
  - (D) Outdoor dining or pedestrian-oriented space;
  - (E) Decorative lighting; or
  - (F) Other design elements that meet the intent of these standards as determined by the director.

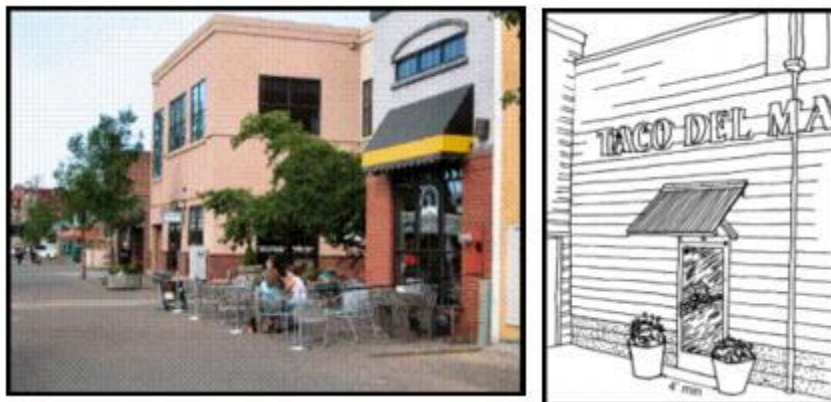


Figure C22– Examples of secondary public access. Note the planters, window signs, and awnings.

## C.2 Commercial and mixed-use, vehicular access and parking location

- (1) On sites abutting an alley, commercial, developments shall have parking areas placed to the rear of buildings with primary vehicular access via the alley, except when waived by the planning director due to physical site limitations.
- (2) When alley access is available, and provides adequate access for the site, its use is required.
- (3) Direct parking space access to an alley may be used for parking lots with five or fewer spaces.

## C.3 Additional design standards for gas stations, convenience stores, car washes and similar uses

- (1) All structures (primary building, screening walls, canopy, canopy supports, signs, dumpster enclosures, etc.) should match architecturally by incorporating similar materials, detailing, roof, and building forms and landscaping.
- (2) Pad buildings and landscaping should match the surrounding shopping center.
- (3) A two-foot-plus border of textured paving should be provided:
  - (a) Around the footprint of the gasoline canopy;
  - (b) Between the pump area and the store entrance;

- (c) Where the public sidewalk crosses the driveways; and
- (d) In other pedestrian areas.
- (4) Vehicular and pedestrian cross-access should be provided with adjacent commercial properties.
- (5) Pad development sites should "share" driveways with the surrounding shopping center when reasonable to do so.
- (6) A three-foot masonry screen wall, earth berm, or combination shall be provided along all street frontages.
- (7) Automobile service and wash bays visible from the public street shall be screened with a six-foot masonry wall.
- (8) Service activity areas (automotive, tire, etc.) should be oriented away from residential uses.
- (9) Signage shall be an integral design element of a project and compatible with the exterior architecture with regard to location, scale, color and lettering.
- (10) All sign colors and materials should match those of the building or the "corporate colors." Opaque or muted sign backgrounds with cabinet-type signs are encouraged.
- (11) No commercial signage should occupy the pump island area. All directional signs should be architecturally integrated.
- (12) Gasoline price signs should be architecturally integrated with other signs or structures.

#### **C.4 Non-Residential Open Space Requirements**

- (1) New developments with non-residential uses on sites with a total site area greater than 1 acre must provide "pedestrian-oriented open space" equal to at least 1% of the ground floor non-residential building footprint plus 1% of the "site area." The open space may be in the form of "pedestrian-oriented open space" (see subsection (2)(b) of this section), garden, play area or other open space feature that serves both as a visual amenity and a place for human activity. Portions of sidewalks that are wider than 12' and which meet the standards of pedestrian-oriented open space may be counted toward this requirement. For this specific guideline, "site area" includes all land needed for the non-residential portion of the project including parking, service areas, access and required landscaping. The intent of this guideline is to provide for some outdoor space for activities or amenities that enhance the commercial activities, such as outdoor eating areas, display areas, seating, etc.
- (2) Pedestrian-Oriented Open Space. Where "pedestrian-oriented open space" is provided, including, but not limited to areas required in these design the open space according to the following criteria. If sidewalks are wider than the required minimum width, the additional sidewalk width may be counted as pedestrian-oriented open space.
  - (a) Required pedestrian-oriented open space features:
    - (i) Visual and pedestrian access (including ADA compliant access) into the site from a street, private access road, or non-vehicular courtyard.
    - (ii) Paved walking surfaces of either concrete or approved unit paving.
    - (iii) Lighting must conform to these design standards.
    - (iv) Spaces must be located in or adjacent to areas with significant pedestrian traffic to provide interest and security, such as adjacent to or visible from a building entry.
    - (v) Landscaping components that add visual interest and do not act as a visual barrier. This could include planting beds, potted plants, or both.
  - (b) Desirable pedestrian-oriented open space features:
    - (i) Pedestrian amenities, such as a water feature, site furniture, artwork, drinking fountains, kiosks, or other similar features.

- (ii) At least 2 feet of seating area (a bench or ledge at least 16 inches deep and appropriate seating height) or one individual seat per 60 square feet of plaza area or open space.
- (iii) Adjacent buildings with transparent window and doors covering 75 percent of the façade between 2 feet and 8 feet above the ground level.
- (iv) Consideration of the sun angle at noon in the design of the space.
- (v) Pedestrian weather protection, alcoves, seating, or other features along building edges to allow for outdoor seating areas and a planted buffer.
- (c) A pedestrian-oriented open space must not have:
  - (i) Asphalt or gravel pavement.
  - (ii) Adjacent parking areas or service areas (e.g.: trash areas) that are not separated with landscaping.
  - (iii) Adjacent chain-link fences.
  - (iv) Adjacent "blank walls" without "blank wall treatment."
  - (v) Outdoor storage that does not contribute to the pedestrian-oriented environment.

### **C.5 Residential open space and recreation space required**

The on-site open space and recreation space standards are intended to provide usable, accessible, and inviting open space for residents that enhances residential areas. Multifamily residential uses in the mixed use zone shall provide open space equivalent to at least 20 percent of the building's gross floor area; vertical mixed use developments (where commercial and multifamily uses are contained in the same building) shall not be subject to this requirement; provided, that at least 80 percent of the ground floor is exclusively dedicated to commercial uses and residential uses shall be limited to walls not oriented or located along the street. The required area may be satisfied with one or more of the elements listed below:

- (1) Common open space accessible to all residents shall count for up to 100 percent of the required open space. This includes landscaped courtyards or decks, gardens with pathways, children's play areas, or other multipurpose recreational and/or green spaces. Special requirements and recommendations for common spaces include the following:
  - (a) Space shall be large enough to provide functional leisure or recreational activity area per the director. For example, long narrow spaces less than 20 feet wide rarely, if ever, can function as usable common open space.
  - (b) Consider space as a focal point of development.
  - (c) Open space, particularly children's play areas, shall be visible from dwelling units and positioned near pedestrian activity.
  - (d) Space shall feature paths, plantings, seating, lighting and other pedestrian amenities to make the area more functional and enjoyable.
  - (e) Individual entries shall be provided onto common open space from adjacent ground floor residential units. Small, semi-private open spaces for adjacent ground floor units that maintain visual access to the common area are strongly encouraged to enliven the space.
  - (f) Separate common space from ground floor windows, streets, service areas and parking lots with landscaping and/or low-level fencing, where desirable.
  - (g) Space shall be oriented to receive sunlight, facing east, west, or (preferably) south, when possible.
  - (h) Required setbacks, landscaping, driveways, parking, or other vehicular use areas shall not be counted toward the common open space requirement.
  - (i) Rooftops or rooftop decks shall not be considered as common open space for the purpose of calculating minimum open space area; provided, that the director may

consider rooftops or rooftop decks as common open space where usable open space amenities are provided and available to all residents.

(j) Outdoor open space shall not include areas devoted to parking or vehicular access.

(2) The following amenities may be used to satisfy up to 50 percent of the open space requirement. A combination of these amenities may be provided in different ratios; provided, that (i) the total credit for any combination of the following amenities may not exceed 50 percent of the open space requirement, and (ii) the amount of the amenity provided is sufficient to achieve the purpose of the amenity as determined by the director:

(a) Individual balconies that provide a space usable for human activity. To qualify, the balconies shall be at least 35 square feet and have no dimension less than four feet.

(b) Natural areas that function as an amenity to the development, subject to the following requirements and recommendations:

(i) The natural area shall be accessible to all residents. For example, safe and attractive trails provided along or through the natural area where they could serve as a major amenity to the development.

(ii) Steep slopes, wetlands, or similar unbuildable areas shall not be counted in the calculations for required open space unless they provide a visual amenity for all units, as determined by the director.

(c) Storm water retention areas if the facility has natural looking edges, natural vegetation, and no fencing except along the property line. The design of such areas shall go well beyond functional storm water requirements per the director in terms of the area involved and the quality of landscaping and resident amenities. The side slope of the storm water facilities shall not exceed a grade of 1:3 (one vertical to three horizontal) unless slopes are existing, natural, and covered with vegetation.

(3) Children's play equipment and recreational activity space for children and/or teens that include parent seating areas are required in residential complexes with 20 or more units. Exceptions: age-restricted senior citizen housing; mixed use developments (combined commercial and residential in same building); developments reserved for student housing; infill lots within the downtown master plan area; and developments located within a quarter mile of safe walking distance to a public park that features a play area.

(4) Active recreation facilities may be provided, subject to the following:

(a) Active recreation facilities may include, but are not limited to, exercise rooms, sports courts, swimming pools, tennis courts, game rooms, or community centers; and

(b) Indoor recreation areas may be credited towards the total recreation space requirement, when the city determines that such areas are located, designed and improved in a manner which provides recreational opportunities functionally equivalent to those recreational opportunities available outdoors.



*Figure C23 – Balconies provide private, usable open space for residents.*



*Figure C24 – A residential courtyard providing semi-private patio spaces adjacent to individual units.*



*Figure C25 – Children's play area incorporated into a multifamily development.*

(5) Minimum total open space. In addition to requirements (1) and (2) above, all multifamily development shall include at least 30% of the total lot area as landscaped open space. The landscaped open space shall not include any area used for vehicle circulation or parking, but may include residential open space areas, areas in required building setbacks, play areas, natural areas, and critical areas.

## **C.6 Townhouse open space**

(1) Townhouses and other ground based multifamily residential units with individual exterior entries must provide at least 200 square feet of ground related private open space per dwelling unit adjacent to, and directly accessible from, each dwelling unit. This may include private balconies, individual rear yards, landscaped front yards, and covered front porch areas.

(2) Minimum total open space. In addition to the open space requirement in subsection (1) of this section, all townhouse developments shall include at least 30% of the total development as landscaped open space. The landscaped open space shall not include any area used for vehicle circulation or parking, but may include community open space, areas in required building setbacks, play areas, natural areas, and critical areas.



*Figure C26 – Common open space for a townhouse development*



*Figure C27 – These townhouses provide balconies and semi-private yard space*

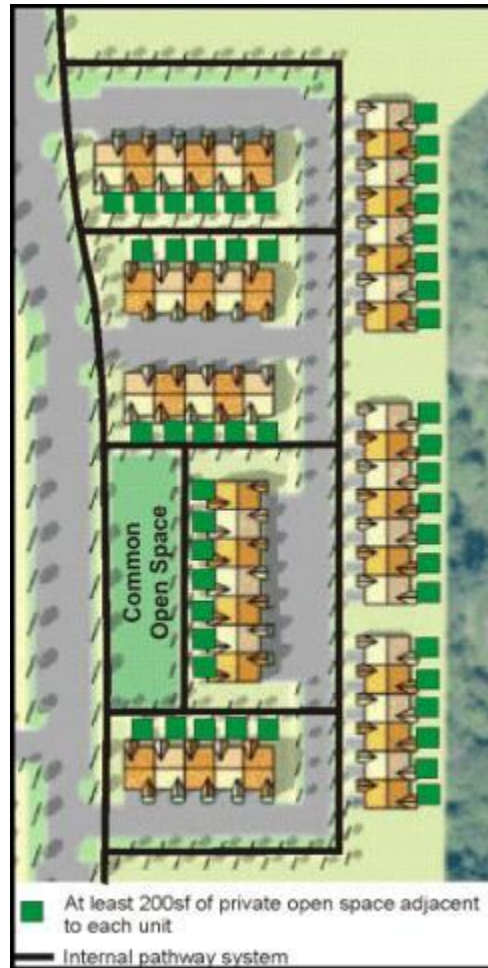


Figure C28 – Example townhouse configuration with a combination of private open spaces adjacent to units and larger common open space accessible to all units.

## C.7 Maintenance or dedication of open space

- (1) Unless the open space is dedicated to the city pursuant to subsection (2) of this section, maintenance of any open space retained in private ownership shall be the responsibility of the owner or other separate entity capable of long-term maintenance and operation in a manner acceptable to the city.
- (2) Open space may be dedicated as a public park when the following criteria are met:
  - (a) The dedicated area is at least one and one-half acres in size, except when adjacent to an existing or planned public park;
  - (b) The dedicated land provides one or more of the following:
    - (i) Shoreline access;
    - (ii) Regional trail linkages;
    - (iii) Habitat linkages;
    - (iv) Recreation facilities; or
    - (v) Heritage sites;
  - (c) The entire dedicated area is located less than one mile from the project site.
  - (d) Dedication is approved by the Director of Parks, Culture, and Recreation.

## C.8 On-site recreation – Fee in lieu of open space

Nothing herein shall prohibit voluntary agreements with the city that allow a payment in lieu of providing on-site open space or recreation space when a proposed development is located within one-quarter mile of an existing or proposed recreational facility; and, in the discretion of the director, the proposed recreation facility will be of greater benefit to the prospective residents of the development.

## C.9 Service Areas and Mechanical Equipment

(1) Service Element Location and Design. All development shall provide a designated spot for service elements. Such elements shall meet the following requirements:

(a) Service areas (loading docks, trash dumpsters, compactors, recycling areas, electrical panels, and mechanical equipment areas) shall be located to avoid negative visual, auditory (noise), olfactory, or physical impacts on the street environment and adjacent residentially zoned properties. The City may require evidence that such elements will not significantly impact neighboring properties or public areas. (For example, the City may require noise damping specifications for fans near residential zones.)

(b) Exterior loading areas for commercial uses shall not be located within 20 feet of a single family residentially zoned property, unless the Director finds such a restriction does not allow feasible development. In such cases, the areas and drives will be separated from the residential lot by a masonry wall at least 8 feet high. Internal service areas may be located across the street from a single family residential zone.

(c) Service areas must not be visible from the sidewalk and adjacent properties. Where the City finds that the only option for locating a service area is either visible from a public right-of-way or space or from an adjacent property, the area must be screened with either landscape or structural screening measures provided in [MMC Chapter 22C.120 Landscaping and Screening](#).

(d) The designated spot for service elements shall be paved with concrete.

(e) Appropriate enclosure of the common trash and recycling elements shall be required, as determined by the Director. Requirements and considerations:

(i) A 6-foot fence constructed of concrete block or brick enclosing trash and recycling receptacles is required. Coordination with the current franchise hauler is required. The sides and rear of the enclosure must be screened with L1, L2, L3, or L4 landscaping (as defined in [MMC 22C.120.110](#)) at least 5 feet deep in visible locations as determined by the Director to soften the views of the screening element and add visual interest.

(ii) Proximity to adjacent residential units will be a key factor in determining appropriate service element treatment.

(iii) Preferably, service enclosures are integrated into the building itself.



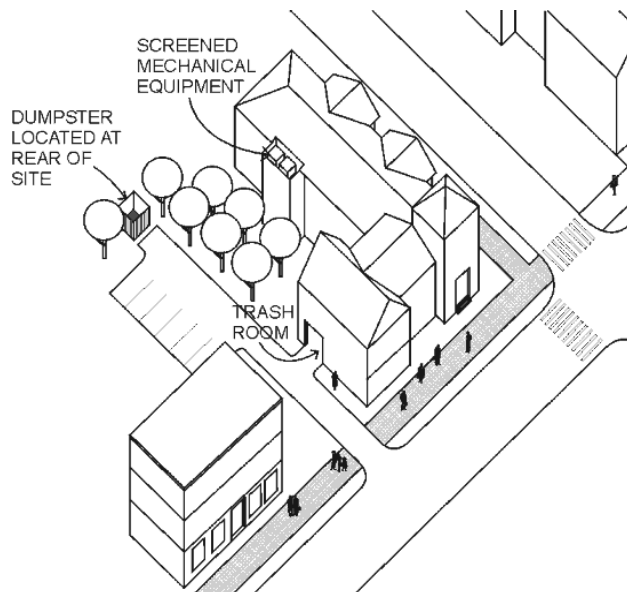


Figure C29. Locate service elements to reduce impacts on the residential and pedestrian environment.

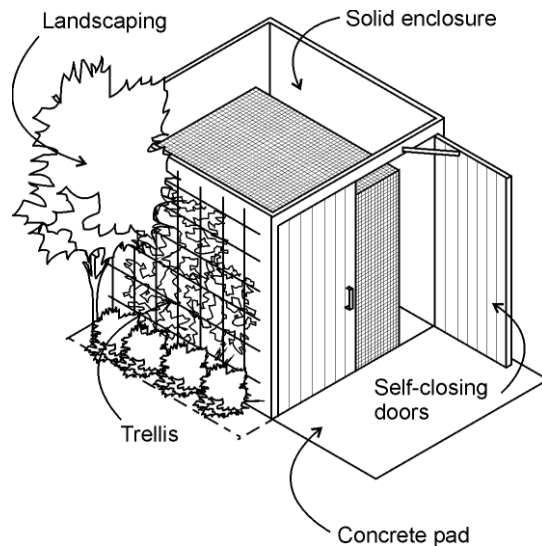


Figure C30. Trash receptacle and recyclables screening example

(2) Utility Meters, Electrical Conduit, and Other Service Utility Apparatus. These elements shall be located and/or designed to minimize their visibility to the public. If such elements are mounted in a location visible from the street, pedestrian pathway, common open space, or shared auto courtyards, they shall be screened with vegetation or by architectural features.



Figure C31. Exposed utility meters like this will not be allowed.



Figure C32. Landscaping helps to minimize the negative visual impacts of utility meters.

(3) Roof mounted mechanical equipment must be located and screened by a parapet, or other primary building element, so the equipment is not visible within 150 feet of the structure when viewed from the ground level of adjacent properties. Match the color of roof mounted equipment with the exposed color of the roof to minimize visual impacts when equipment is visible from higher elevations nearby.

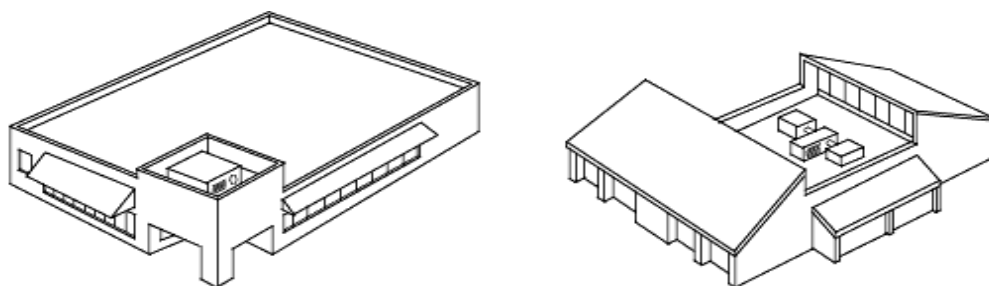


Figure C33. Examples of how to screen roof-mounted mechanical equipment.

(4) Locate and/or shield noise producing mechanical equipment such as fans, heat pumps, etc so that noise reaching the adjacent properties is less than 50 dBA. If required by the Director, the applicant must demonstrate that this standard is achieved by providing equipment specifications and/or calculations of noise impacts.

## C.10 Fences

(1) Purpose. The fence standards promote the positive benefits of fences without negatively affecting the community or endangering public or vehicle safety. Fences provide separation from busy streets, sewer service areas, define vehicle areas, and enhance the appearance of property by providing attractive landscape materials. The negative effects of fences can include the creation of street walls that inhibit police and community surveillance, decrease the sense of community, hinder emergency access and the safe movement of pedestrians and vehicles, and create an unattractive appearance.

(2) Types of Fences.

(a) The standards apply to walls, fences, trellises, arbors and screens of all types whether open, solid, wood, metal, wire, masonry or other material.

(b) No barbed or razor-wire fence shall be permitted, except for the following:

(i) Industrial zones.

(ii) Confinement of livestock.

(iii) Public facilities, transmitter and transformer sites.

(iv) Government installations where security or public safety is required.

(v) Automobile holding yards and similar businesses if required under

state law.

(3) Height.

(a) Business and Commercial Zones. All yards: eight feet.

(b) Industrial Zones. All yards: 10 feet.

(c) When a protective fence is located on top of a rockery, any portion of the fence above a height of eight feet shall be an open-work fence.

(d) Open wire mesh or similar type fences may be erected in excess of the maximum heights permitted in this code on the periphery of playgrounds associated with private and public schools and parks, public facilities, transmitter and transformer sites, and government installations where security or public safety is required.

(e) The height of a fence or freestanding wall, retaining wall or combination of the same shall be measured from its top surface, board, rail, or wire to the natural elevation of the ground on which it stands.

(f) Where the finished grade is a different elevation on either side of a fence, the height may be measured from the side having the highest elevation.

(4) Setbacks.

(a) Front Lot Line.

(i) Solid fences greater than four feet in height shall be set back at least 20 feet from the street right-of-way, unless they are used to screen service areas or unsightly areas.

(ii) No fence taller than 4 feet above grade shall be located between a street and a building's front façade or entrance.

(b) Side lot line: No setback requirement.

(c) Rear lot line: No setback requirement.

(d) For special rules relating to fences and walls near fire hydrants, see [MMC](#)

[14.03.050\(2\) and the International Fire Code.](#)

(5) Fence exemptions.

(a) The director shall have authority to administratively grant an exception to the fence requirements outlined in this section. The director is authorized to issue exceptions in cases of special hardships, unique circumstances and practical difficulties. No exception shall be granted which would be detrimental to the public health, welfare or environment.

(b) In considering a request for a modification of the fence requirements outlined in subsections (1) through (4) of this section, the community development director shall consider the following factors:

- (i) If the proposed fence is designed and constructed so that it does not cause a public safety hazard by obstructing visibility of pedestrians or motorists using streets, driveways or sidewalks;
- (ii) The proposed fence will not infringe upon or interfere with utility and/or access easements or covenant rights or responsibilities;
- (iii) The increased fence height will not adversely affect adjacent property owners or reduce visibility of the property from the street.

### **C.11 Special limitations in the business and commercial zones**

- (1) Where lighted signs and illuminated areas are permitted, such illuminating devices shall be shaded and/or directed so as not to visibly create a nuisance to any property in a residential zoning classification.

### **C.12 Outdoor lighting**

- (1) Sight Lighting Levels. All publicly accessible areas shall be lighted with average minimum and maximum levels as follows:
  - (a) Minimum for low or non-pedestrian and vehicular traffic areas -0.5 foot candles;
  - (b) Minimum for moderate or high volume pedestrian areas- 1-2 foot candles;
 and
  - (c) Maximum (for high volume pedestrian areas and building entries)- up to 4 foot candles.
- (2) Light Quality and Shielding.
  - (a) Parking area lighting fixtures shall be full cut-off; dark sky rated and mounted no more than 20 feet about the ground, with lower fixtures preferable so as to maintain a human scale.
  - (b) Exterior lighting must comply with C.1(4)(d) of the Lakewood Neighborhood Design Standards.
- (3) Architectural Lighting. The lighting of building features, artwork, and special landscape elements may be allowed, subject to the findings of the Director that the light causes no significant adverse impact.

### **C.13 Street Connectivity**

The Lakewood Neighborhood Master Plan places a high priority on being a “walkable” and accessible community. Frequent and attractive connections between destinations through a well-connected system of streets and pathways are required.

- (1) Connectivity to abutting lands. The street system of proposed development shall be designed to connect with existing, proposed, and planned streets outside of the development. Wherever a proposed development abuts unplatted land or other land with the capability of being further subdivided, street stubs shall be provided to allow access to future abutting subdivisions and to logically extend the street system into the surrounding area. All street stubs shall be provided with a temporary turn-around unless specifically exempted by the fire marshall, and the restoration and extension of the street shall be the responsibility of any future developer of the abutting land.
- (2) Continuation of streets. Planned streets shall connect with surrounding streets to permit the convenient movement of traffic between residential neighborhoods and to facilitate emergency access and evacuation. Connections shall be designed to meet or exceed the block standards in subsections (3) below, and to avoid or minimize through traffic on local streets.

(3) **Block size.** New development in mixed-use zones shall provide an integrated and connected network of streets to provide “direct” walking route options, orientation, a sense of place, and multiple travel route options. A street network dominated by long, irregular loop roads and cul-de-sacs is not appropriate. Blocks shall be designed to provide vehicular connections at intervals no greater than 600 feet and pedestrian access at intervals no greater than 300 feet (200 feet is preferred).



Figure C34. Examples of appropriately scaled mixed-use blocks that accommodate pedestrian connections no further apart than 300 feet.

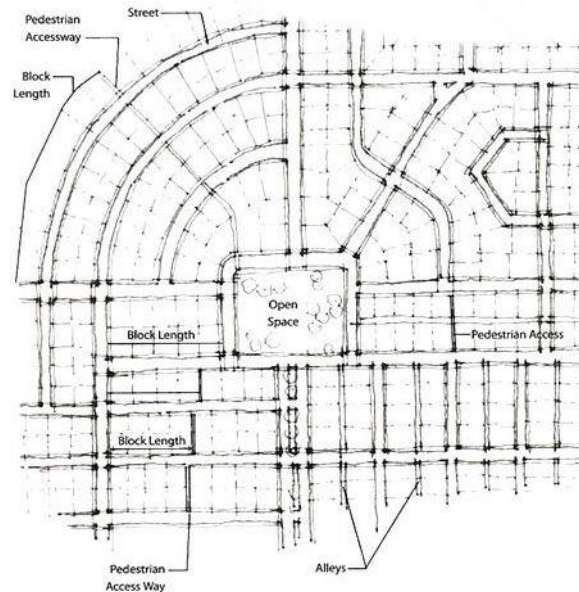


Figure C35. Example of well-connected street network. Note that the “block lengths” show how street and pedestrian path intervals are measured.

(4) **Pedestrian accessways.** Internal paths, such as an accessway in the middle of a block, are encouraged to provide pedestrian access at intervals no greater than 300 feet to improve pedestrian mobility. Such access ways shall conform to all of the following standards:

(a) **Width.** Pedestrian accessways shall be located within dedicated public rights-of-way or private easements allowing public access with a minimum dimension of 10 feet in width;

(b) Design. Pedestrian accessways shall be constructed to sidewalk standards for Local Access Roads or be designed as a multi-use trail per direction in the Non-Motorized Transportation Systems Plans outlined in the Lakewood Neighborhood Master Plan and 2015 Transportation Element of the Marysville Comprehensive Plan. Also see Chapter 3 of the City of Marysville Engineering Design and Development Standards (EDDS). Alternative designs may be considered where significant environmental constraints are present;

(c) Safety. The accessway shall incorporate design treatments that avoid a “tunnel effect” in the corridor and create a potential safety problem. Design solutions could involve the width, length, and/or the alignment of the corridor, height of fences adjacent to the corridor, lighting treatments, and/or the proposed landscaping along the corridor;

(d) Accessibility. Pedestrian accessways shall conform to applicable ADA requirements, except where not required by applicable ADA rules and regulations;

(e) Landscaping. The city may require landscaping to buffer pedestrians from adjacent vehicles and land uses. Plantings shall emphasize drought tolerant and low maintenance materials and shall maintain adequate visibility for safety; and

(f) Where pedestrian accessways are privately owned, they shall be operated and maintained by the developer until: (1) the declaration and covenants for plat are recorded, and (2) a property owners, business, or homeowners organization has been established which shall be legally responsible for the operation and maintenance of the pedestrian accessway.

## **C.14 Nonconforming situations**

Existing developments that do not conform to the development standards of this chapter are subject to the standards of [MMC Chapter 22C.100, Nonconforming Situations](#).

## **C.15 Parking and loading**

The standards pertaining to the required number of auto parking spaces, bicycle parking spaces, parking lot placement, parking lot setbacks and internal parking lot pedestrian connections are stated in [MMC Chapter 22C.130, Parking and Loading](#).

## **C.16 Signs**

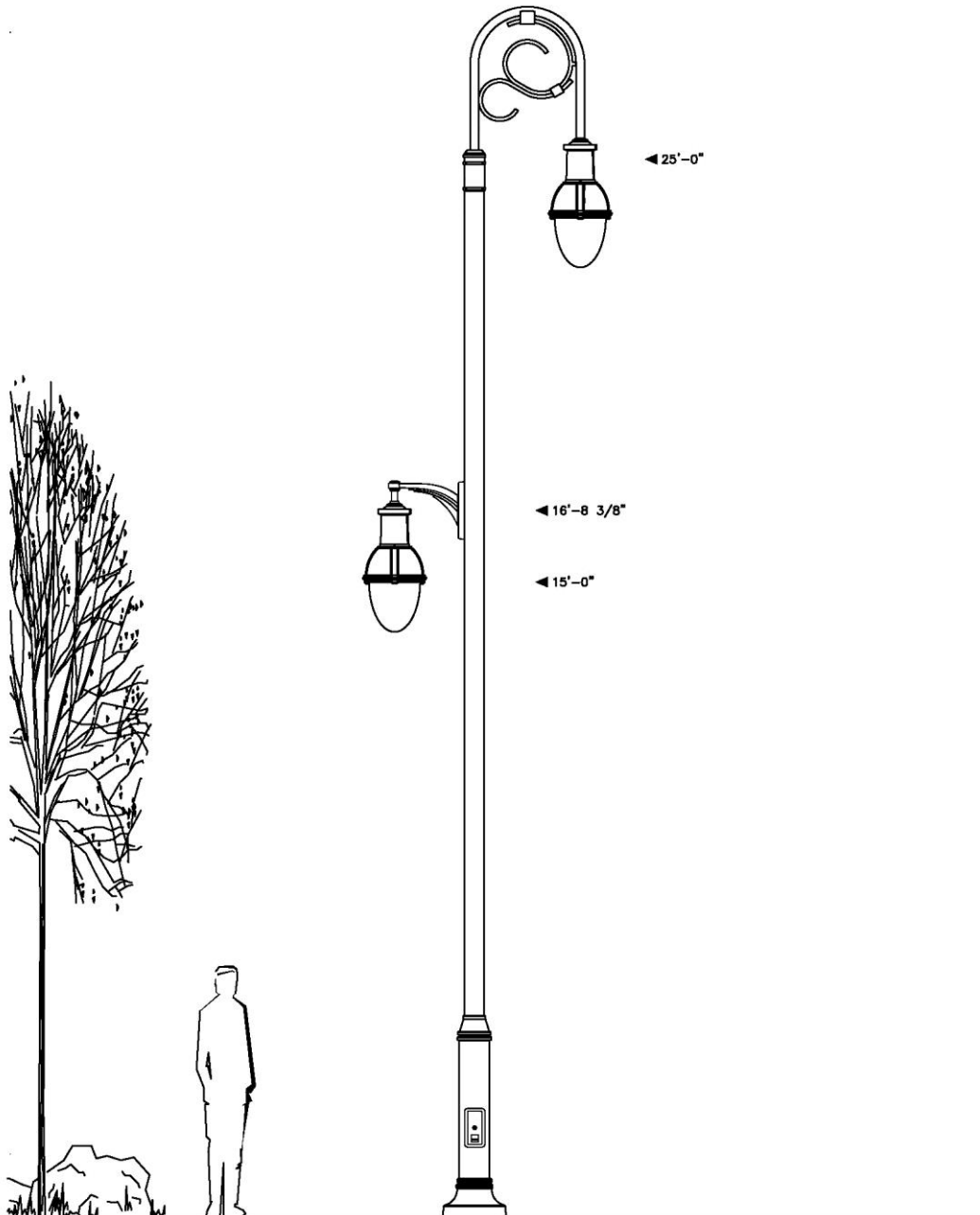
The sign standards are stated in [MMC Chapter 22C.160, Signs](#).

## **C.17 Landscaping and screening**

The landscaping and screening standards are stated in [MMC Chapter 22C.120, Landscaping and Screening](#).

# Appendix B – DECORATIVE STREET LIGHTING STANDARDS

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## B.1 Decorative Street Lighting Standards

(1) All decorative street light installations shall be Philips Lumec Renaissance Series color BRTX (textured bronze) or approved equal, and shall include the following, or latest model:

(a) Philips Lumec Renaissance Series fixture product number RN20-(90 or 135)W80LED-ACDR-LE3R-240-BRTX.

(b) Philips Lumec pole product number SSM8V-25-BRTX including pole, access door, plant support, decorative cover, ballast module, ballast tray, weld cover, base cover and GFCI receptacle.

(c) Philips Lumec Renaissance Series mounting arm product number NMIA-RNA-BRTX.

(d) Philips Lumec Renaissance Series Pedestrian scale lighting may also be required and shall be determined based upon projects details specific to the location pedestrian sidewalk and/or multi-use path design. This product may include a standalone decorative pole with fixture or a decorative arm and fixture mounted on the decorative street light pole.

(2) Decorative street light standards shall be furnished and installed in accordance with the methods and materials noted in the applicable Standard Plans, pre-approved plans, or special design plans. All welds shall comply with the latest AASHTO Standard Specifications for Support of Highway Signs, Luminaires, and Traffic Signals. Welding inspection shall comply with Section 6-03.3(25)A, Welding Inspection.

(3) All decorative street light standards shall meet the following:

(a) All poles and arms shall be round tapered steel.

(b) All lamps and electrical components shall be accessible without tools.

(c) Optical systems shall be IP66 rated.

(d) Luminaires shall incorporate LED lamps with an L70 rated LED lamp and driver life of 100,000 hours or greater.

(e) LED lamps shall have a color temperature of 4000K (+/- 350K).

(f) Decorative street light standards, luminaire arms, banner arms (if required), decorative bases, and visible mounting hardware shall be of the color BRTX (textured bronze) with a powder coating.

(g) Bolts shall be per manufacturer recommendation and installed per the Plans and Specifications.

(h) All poles shall have a handhole for access to the tray-mounted ballasts.

(i) All standards shall be rated to withstand 100 MPH steady wind with a gust factor of 1.3.

(j) Bolt circle allowed shall be 11" @ 13".

(k) All poles and luminaire arms shall incorporate decorative elements identical too or similar to those shown within the Plans.

(4) Every other (a minimum of fifty (50) percent of installed) decorative street light standard shall meet the following:

(a) Have a 120V built in duplex GFCI receptacle outlets installed at the top of the pole. The GFCI receptacle outlet circuit shall be placed on a 20 amp minimum circuit. The GFCI receptacle outlets shall be inspected utilizing a standard off-the-shelf GFCI receptacle tester, prior to project completion, by the contractor in the presence of the City signal technician or City electrical inspector. GFCI outlets which fail the test shall be replaced by the contractor and retested by the contractor in the presence of the City signal technician or City electrical inspector.

(b) Have banner arms permanently mounted at a height of 20 feet and banner arms mounted to an adjustable clamp assembly at a height of 12 feet. Banner arms shall be thirty-six (36) inches long and have a three (3) inch ball at the end.

(c) Banner arm mounts and duplex GFCI receptacle outlets shall be oriented 180 degrees from the steel arms of the luminaire.



(5) Decorative street light standards shall be engineered by the pole manufacturer. Drawings shall be stamped by a licensed structural engineer with current valid State of Washington stamp. The foundation shall be engineered by a licensed structural engineer using pole manufacture data and project supplied soils testing report. Engineered/ stamped plans by a currently licensed structural engineer shall be submitted to the project engineer. Foundation work and pole manufacture shall not commence until engineered plans have been approved by the project engineer. All poles shall be circular in cross-section.

(6) After delivering the standards to the job site and before they are installed, they shall be stored in a place that will not inconvenience the public. All standards shall be installed in compliance with Washington State Utility and Electrical Codes.

(7) Factory approved touch-up paint of color BRTX (textured bronze) in the quantity of 1 unopened gallon shall be supplied to the City prior to project completion.



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

## PC Recommendation - Lakewood Neighborhood Master Plan

The Planning Commission of the City of Marysville, having held a public hearing on December 13, 2016, in review of a NON-PROJECT ACTION Master Plan for Planning Area No. 11 *Lakewood Neighborhood* as an amendment to the 2015 Marysville Comprehensive Plan; and having concurrently considered design regulations as an amendment to Marysville Municipal Code (MMC) Title 22 *Unified Development Code*; and having considered the exhibits and testimony presented, does hereby enter the following findings, conclusions and recommendation for consideration by Marysville City Council:

### FINDINGS:

1. The Planning Commission held public work sessions in review of the DRAFT Lakewood Neighborhood Master Plan (LNMP) and DRAFT Design Regulations on December 8, 2015, March 22, 2016, May 10, 2016, September 13, 2016, September 27, 2016 and October 25, 2016.
2. The Community Development Department conducted two (2) neighborhood meetings at Cougar Creek Elementary in order to obtain feedback regarding the DRAFT LNMP and DRAFT Design Regulations on October 21, 2015 and March 24, 2015.
3. The Community Development Department issued Addendum No. 24 to the Final Environmental Impact Statement for the City of Marysville Comprehensive Plan on July 11, 2016 in order to satisfy the State Environmental Policy Act (SEPA) requirements in accordance with WAC 197-11-625.
4. Community Development Staff submitted the DRAFT LNMP and DRAFT Design Regulations to the State of Washington Department of Commerce on April 27, 2016 for review pursuant to RCW 36.70A.106.
5. The Community Development Department received a letter from the State of Washington Department of Commerce acknowledging receipt of the DRAFT LNMP and DRAFT Design Regulations on April 28, 2016 and processed with material ID #22333. No comments were received from State Agencies
6. The Planning Commission was provided written comments received by the Community Development Department, and took into consideration testimony received from staff and the public at the duly-advertised public hearing held on December 13, 2016.

### CONCLUSION:

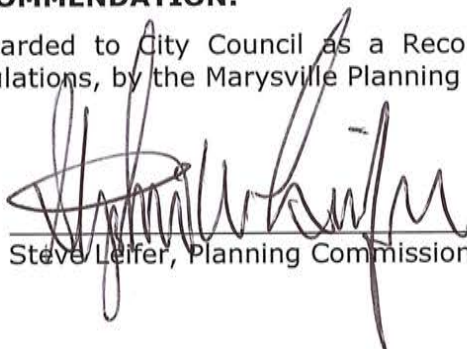
At the public hearing, The Planning Commission recommended the adoption of the Lakewood Neighborhood Plan with the edits as presented by staff in the Planning Commission packet, as reflected in the Planning Commission Minutes, dated December 13, 2016, attached hereto as **Exhibit A**. This motion includes a condition that staff work with the owner/representative of the Howard property (APN 31052900200400) to locate the 169<sup>th</sup> Place NE extension as far south as possible, on the property, taking into consideration the properties development

potential and Engineering Design and Development Standards (EDDS) applied by the City Engineer.

**RECOMMENDATION:**

Forwarded to City Council as a Recommendation of Approval of the LNMP and Design Regulations, by the Marysville Planning Commission this 13<sup>th</sup> day of December, 2016.

By:



\_\_\_\_\_

Steve Leifer, Planning Commission Chair

# PLANNING COMMISSION



# MINUTES

**December 13, 2016**

**7:00 p.m.**

**City Hall**

## **CALL TO ORDER**

Chair Leifer called the December 13, 2016 meeting to order at 7:00 p.m. noting the presence of several people in the audience.

### Marysville

**Chairman:** Steve Leifer

**Commissioners:** Roger Hoen, Jerry Andes, Kay Smith, Brandon Whitaker

**Staff:** Planning Manager Chris Holland, Community Development Director Dave Koenig, Senior Planner Angela Gemmer

**Absent:** Kelly Richards and Tom Thetford (both excused)

## **APPROVAL OF MINUTES**

### November 22, 2016

**Motion** made by Commissioner Smith, seconded by Commissioner Whitaker, to approve the November 22, 2016 Meeting Minutes as presented. **Motion** passed unanimously (5-0)

## **AUDIENCE PARTICIPATION**

None

## **PUBLIC HEARINGS**

### MMC Chapter 11.52 Commute Trip Reduction Update

Senior Planner Gemmer gave background on this item and reviewed the proposed changes as discussed at the last meeting.

The public hearing was opened at 7:07 p.m. Seeing no public comments, the hearing was closed at 7:07 p.m.

**Motion** made by Commissioner Hoen, seconded by Commissioner Smith, to recommend this for approval to the City Council. **Motion** passed unanimously (5-0).

### Lakewood Neighborhood Master Plan

Planning Manager Chris Holland reviewed the redlined version of the Lakewood Neighborhood Master Plan, Appendix A (Design Standards) and Appendix B (Decorative Street Lighting).

Planning Manager Holland also noted that all written public comments to date were included in the Planning Commission's packet. Staff received another email today, which was distributed to the Planning Commission. That letter was based on a previous letter regarding the Margaret Hanson estate. Regarding that matter, Planning Manager Holland noted that there would not be any additional design or use requirements for Ms. Hanson's property that would not be a requirement for all other properties with similar zoning designation. If approved as proposed, each zone within the master plan area would be subject to the Appendix A Design Standards. Commissioner Hoen asked if staff ever met with the representatives of the Margaret Hanson estate. Planning Manager Holland stated he had tried to make contact once, but was not successful.

Planning Manager Holland explained that the purpose of the plan was to plan for development for the next 20 years focusing on transportation, utilities and design standards. Some of the assets include the civic center, Twin Lakes Park, existing rural crossroads character, scenic views, major shopping center, and access to other areas in the region. The 20-year plan would accommodate another 4,200 jobs and about 5,600 more people in the area. There will be a tremendous amount of growth in Lakewood.

Senior Planner Holland reviewed the existing zoning. He discussed recommended traffic improvements at 172<sup>nd</sup> Street, the 156<sup>th</sup> Street NE Interchange, Neighborhood Roadway Network north of 172<sup>nd</sup> (174<sup>th</sup> Street NE; 176<sup>th</sup> Street NE; 23<sup>rd</sup>/25<sup>th</sup> Avenue NE; and 19<sup>th</sup> Avenue NE) and south of 172<sup>nd</sup> Street (27<sup>th</sup> Avenue NE; 23<sup>rd</sup> Avenue NE; 19<sup>th</sup> Avenue NE/169<sup>th</sup> Street NE; 25<sup>th</sup>/27<sup>th</sup> Avenue NE; 156<sup>th</sup> Street NE and Interchange; 156<sup>th</sup> Street NE Multiuse Connection to Centennial Trail; Twin Lakes Avenue; 156<sup>th</sup> Street/Twin Lakes Avenue). He discussed the Land Use and Planned Collector Roads in the Transportation Element, the Draft Vehicular Network Map, the Land Technologies Road Connection Proposal, the Leifer Road Connection Proposal, the Andes Road Connection Proposal, and introduced Staff's Recommended Road Alignment as contained in the packet. Based on all the comments received from commissioners and the general public, staff has revised its recommendation. This includes elimination of the continuation of 30<sup>th</sup> down across the railroad, shifting that roadway to the east and allowing it as a sort of frontage road (Twin Lakes Frontage Road) which would connect down at 136<sup>th</sup>, and elimination of the previously recommended roadway along the

railroad. He noted that staff believes that the 23<sup>rd</sup>/27<sup>th</sup> Avenue Corridors would be the most important ones to move people.

Chair Leifer noted that there is a lot of verbiage contained in past minutes relating to the road connections and the fact that this is a conceptual plan but the details are yet to be finalized. He asked if this fact would be considered for development purposes. Planning Manager Holland replied that it would and noted that these are just recommended connections; the exact alignment would be determined as development occurs. Chair Leifer recommended including some verbiage reflecting that to the text. Planning Manager Holland indicated something like that could be incorporated if desired, but the following text is already included in the Engineering, Design and Development Standards (EDDS):

*“Specific alignments have not been identified for the planned connector roads. Alignments will be defined as part of the future corridor studies or as adjacent properties are developed. Some of the other planned connector roads also may be classified as arterials in the future depending on specific design and access requirements at the time the corridor is developed.”*

Chair Leifer indicated that it didn't need to be restated if it is already in the EDDS. Planning Manager Holland agreed and added that each one of the road connections within the City of Marysville's Urban Growth Area Boundary is also already in the TIF (Traffic Impact Fee) calculation.

Chair Leifer asked about the City's plan for the loop between 23<sup>rd</sup>, 169<sup>th</sup>, and over to 27<sup>th</sup>. Planning Manager Holland replied that the project is in the two-year budget that the Council just approved so it will be moving forward soon.

Commissioner Andes suggested adding a note on the map referring to the statement from the EDDS. Planning Manager Holland indicated staff could do that. Commissioner Andes then referred to the roundabout on 19<sup>th</sup> and commented that a train would stop all traffic. He wondered if there was a type of signal that could be included to assist traffic flow. Planning Manager Holland replied that staff will look into signal options for this.

Utilities – Water: Planning Manager Holland then explained that no major water improvements need to be made in the service area.

Utilities – Sewer: The main improvement that needs to occur is that the sewer line will need to be extended up to 172<sup>nd</sup> along the railroad. There is also a chokepoint near Twin Lakes Avenue that needs to be improved.

Chair Leifer asked if there is a preferred location for discharge for a proposed force main up in that region. Planning Manager Holland indicated he could look into it. Chair Leifer commented that the whole question about sewer is dependent upon what happens with the property that Sayani owns unless another route is found via a pump station. Planning Manager Holland commented that if the City had the ability and the

funds available to put it in and felt it was necessary to spur development, they could acquire the property and put it in. He noted that the issues can be identified when the property owners/developers are working with the Public Works Department.

Utilities – Stormwater: The City adopted Ordinance No. 3035 which becomes effective December 31. This means all development is required to do infiltration or LID improvements as part of their stormwater unless it is proven unfeasible.

Planning Manager Holland explained that the Design Standards in Appendix A build upon existing Design Standards in the current code, but also expand on them to try to get a neighborhood that is pedestrian oriented. The Urban Design Standards require buildings oriented toward the street front. It would require Design Standards for commercial areas to provide pedestrian-oriented character. It would build on the existing character of the area and provide for active ground floors along street segments. Planning Manager Holland summarized the general text amendments as shown by the red lines in the Draft Plan.

Commissioner Hoen asked what the Arlington Municipal Airport Sub Districts C and D are. Planning Manager Holland replied that these relate to requirements for certain areas that align with the proximity to the airport.

Commissioner Whitaker referred to the Design Standards as they relate to lighting and asked if they would be using LED lights. Planning Manager Holland replied that they are seeing a lot more LED. Commissioner Whitaker recommended making sure that if LED lights are used, full cut-off fixtures are required in order to avoid fugitive light going everywhere.

Commissioner Andes asked if the Shaw property will be required to do anything with 19<sup>th</sup>. Planning Manager Holland replied it has been discussed as part of the application process, but hasn't been finalized yet.

The public testimony portion of the public hearing was opened at 8:11 p.m.

Public Testimony:

Sandy Howard, 16704 25<sup>th</sup> Avenue NE, Marysville (2310 – 172<sup>nd</sup> Street), stated that she has lived at this address since 1974. Her husband passed away six years ago and she is working on trying to sell the property. She was disappointed to see a road going through her property which will impact the value tremendously. She recommended that the road avoid her property if at all possible. She urged the Commission to consider the impacts to private property owners.

Merle Ash, 18820 3rd Avenue NE, Arlington, WA, spoke as a citizen and a land use consultant representing Sandy Howard and the Grove Church. He commented that he is generally pretty excited about this plan, but he thinks there needs to be a couple tweaks including Sandy Howard's property. He expressed concern about the 169<sup>th</sup> extension. 169<sup>th</sup> aligns with the south half of the Howard property. A 70-foot corridor

through the property would put a huge burden on the property as it would leave a 70-foot strip remaining south of that which would be basically unusable. He requested that the roads actually get built. He encouraged the City to recognize some of the private property owners' concerns that are along this route. He stated that they will be submitting a pre-application for a road alignment in a townhouse development on that property which will propose S-curves turning to the south of the property line. They feel this would be a good compromise and might actually encourage a developer to purchase the property.

Chair Leifer asked Mr. Ash how the proposed S-curves would relate to the speed limits in the area. Mr. Ash replied that the design and the radius they are proposing would accommodate proposed speed limits. He doesn't think it would be an impact to the flow of traffic. Chair Leifer asked what the speed limit for that area would be. Planning Manager Holland replied it would be 25-30 mph.

Chair Leifer then asked what the recommended road configuration for the 23<sup>rd</sup> extension to the south would be. Mr. Ash replied that they would have liked to see something developed off of 19<sup>th</sup> and down the side of the railroad tracks. As part of their pre-application they will be talking to the City about this issue where her 5-acre property potentially being reduced to a 3.17 acre piece of property as a result of the proposed road alignment.

He summarized that staff did an outstanding job on this Plan.

Seeing no further public comments, the public testimony portion of the public hearing was closed at 8:30 p.m.

Chair Leifer referred to the loop road and the alignment and asked if it would be appropriate for the Planning Commission to give an opinion of where the alignment should be due to the City's plans to construct a road and the eminent development in the area. He spoke in support of preserving individual property rights.

Commissioner Andes discussed some curved roads he had done in his career and commented on how the S-curves might work with the roundabout. He thought that this particular situation would be a good test for the City to demonstrate how it will work with the property owners and developers as stated in the EDDS.

Chair Leifer spoke in support of a statement that the road alignment be held along the south property line of the Howard property with an S-curve to bring it back into the easterly portion and then continue on that route all the way towards the railroad until it curves up 19<sup>th</sup>. He commented that that seems to make a lot of sense for everybody.

Planning Manager Holland noted that could be included as an emphasis from the Planning Commission if that is the consensus. He stated that the City is willing to entertain that road alignment, but it comes down to when development occurs and if it can meet Engineering Design and Development Standards. There appeared to be consensus to support the verbiage indicated by Chair Leifer.



**Motion** made by Commissioner Andes, seconded by Commissioner Smith, to recommend approval of the Plan as presented with direction to facilitate the alignment of 169th as far south as possible, as approved by the City Engineer, in accordance with the EDDS in order to have the least impact possible on the Howard property. **Motion** passed unanimously (5-0).

Commissioner Hoen asked how the compensation to the property owners for right-of-ways is typically figured out. Planning Manager Holland explained that it is something worked out based on fair market value of the land and the cost of improvements. The right-of-way dedicated would be credited toward their traffic impact fees as well as the cost of improving that right-of-way to a public standard.

## **CITY COUNCIL AGENDA ITEMS AND MINUTES**

### **ADJOURNMENT**

**Motion** made by Commissioner Andes, seconded by Commissioner Smith, to adjourn the meeting at 8:51 p.m. **Motion** passed unanimously (5-0).

### **NEXT MEETING:**

January 10, 2017

  
\_\_\_\_\_  
Chris Holland, Planning Manager for,  
Laurie Hugdahl, Recording Secretary

# PLANNING COMMISSION



# MINUTES

**December 8, 2015**

**7:00 p.m.**

**City Hall**

## **CALL TO ORDER**

Chair Leifer called the December 8, 2015 meeting to order at 7:00 p.m.

## **ROLL CALL**

**Chairman:** Steve Leifer

**Commissioners:** Roger Hoen, Jerry Andes, Kay Smith, Kelly Richards, Tom Thetford

**Staff:** Planning Manager Chris Holland, City Engineer Jeff Laycock, Community Development Director Dave Koenig

**Absent:** Steve Lebo (excused)

## **APPROVAL OF MINUTES**

Tuesday, October 13, 2015

**Motion** made by Commissioner Smith, seconded by Commissioner Richards, to approve the Tuesday, October 13, 2015 Meeting Minutes. **Motion** passed unanimously (5-0) with Commissioner Hoen abstaining as he was not at the October 13 meeting.

## **AUDIENCE PARTICIPATION**

### **NEW BUSINESS**

A. Lakewood Master Plan (PowerPoint presentation)

Planning Manager Holland stated the City held a second neighborhood meeting on October 21 in the Lakewood area regarding the proposed Lakewood Neighborhood Master Plan. He explained the presentation tonight would cover the existing, current, and proposed improvements as well as the vision, design guidelines, and motorized and

non-motorized roadway system and design of the Lakewood Master Plan. They would also be discussing public comments.

City Engineer Laycock discussed transportation improvements as contained in the PowerPoint presentation including 172<sup>nd</sup> Street NE Improvements, 169<sup>th</sup> Street NE Connection, Intersection at 172<sup>nd</sup> Street NE & 27<sup>th</sup> Avenue NE, 156<sup>th</sup> Street NE Interchange, and 172<sup>nd</sup> Railroad Crossing. Commissioner Hoen asked about putting a light at 169<sup>th</sup> instead of a roundabout. Planning Manager Holland explained how a roundabout would improve traffic flow.

Commissioner Leifer asked if there was some sort of a prioritization of the State transportation funding. City Engineer Laycock did not think there was a prioritization put into the list. Planning Manager Holland stated there was an early, mid, and long range funding. City Engineer Laycock noted that right now Marysville's priority is the 529 interchange.

Chair Leifer asked if the sewer extensions up north would be funded out of this package. Mr. Laycock replied that would be local funding. Planning Manager Holland added that the lack of sewer is an issue with development in Lakewood.

There was discussion about the 172<sup>nd</sup> Street railroad crossing. It was noted that this was cost prohibitive and would have significant impacts on adjacent property. Planning Manager Holland commented that the City would not be pursuing this as an option at this time. Commissioner Hoen asked about the cost of an undercrossing. Mr. Laycock stated that the cost would be more for an undercrossing.

Mr. Laycock then reviewed proposed utilities improvements including sewer limitations. He explained that as development moves west in the short term a sewer lift station, force main, and downstream gravity improvements would be necessary. Long-term improvements would be to construct a gravity trunk sewer parallel to the railroad tracks. Planning Manager Holland noted that a lift station and force main are being looked at by several different developers in order to get development going.

Commissioner Leifer pointed out that there is a manhole north of Twin Lakes near Housing Hope's property. He asked about the invert of that. City Engineer Laycock explained that could be an option. Commissioner Leifer suggested utilizing that. Planning Manager Holland remarked that the area could all be served by the existing sewer, but it was a question of whether or not it would be easier to run the sewer across the railroad tracks or to run it down along the tracks.

Commissioner Leifer asked about constructing utilities through the wetlands. City Engineer Laycock explained it was possible, but would require mitigation. Planning Manager Holland reviewed the status of properties that are currently in the area. He said he doesn't anticipate a lot of critical areas except for buffers associated with Quilceda Creek.

City Engineer Laycock noted that water is not an issue; the water supply is great. Future improvements would replace the aging water main pipe along the Forty-Five Road and 172<sup>nd</sup> Street NE.

Planning Manager Holland explained that it would make the most sense to serve commuter traffic in the future to go down the Forty-Five Road, over a future railroad overpass at 156<sup>th</sup> Street NE, and get on the new interchange rather than an at grade railroad crossing.

Planning Manager Holland reviewed Lakewood Neighborhood Land Capacity consisting of data related to employment, housing, and population. There was discussion about Tribes' input on potential development. Planning Manager Holland noted that the Tulalips have not had much comment, but the Stillaguamish have had a lot of input related to historical/archeological sites. A discovery pamphlet is handed out to all contractors as part of the pre-construction meeting which tells developers what to do if case they discover something. Also, on certain projects where there are known archeological remains, the Stillaguamish have wanted to be on site when doing the dirt work. Commissioner Leifer commented on the value of providing a series of ponds that could be used for salmon habitat and spawning grounds. This would really enhance the whole area. Planning Manager Holland concurred.

Planning Manager Holland reviewed zoning and existing land use in the area. General clarification questions followed. Existing and proposed development was then reviewed including:

- The Lodge – Phase 1: 182 units and clubhouse; Phase 2: 160 units and fitness center
- Marketplace - Dick's Sporting Goods, Party City, Hobby Lobby, Aveda, T-Mobile, Hop Jack's, Qdoba, Outback and Bonefish, and Firehouse Subs. Planning Manager Hoen asked about a grocery store on the south side of that development. Planning Manager Holland did not think that was in the plans for this location.
- Vintage at Lakewood – 197 affordable senior housing units
- Lakewood High School – New two-story 162,500 square foot high school to accommodate 825 students is currently under review by Snohomish County.
- Marysville Dental – 5,490 square foot medical/dental building

#### Master Plan Concepts:

The Neighborhood Master Plan guides physical development over the next 20 years. The Master Plan focuses on infrastructure improvements and urban design guidelines for new development. The overall concepts are to include a local-serving neighborhood center, retain and build on existing character, and also allow connectivity to the recreational aspects of that such as the school district properties and the Twin Lakes Park. Chair Leifer asked what would happen if they wanted to do an overcrossing or undercrossing there. Planning Manager Holland explained if that were to occur historic Lakewood would be eliminated. There are proposed new routes through currently

undeveloped areas. New streets would support traffic growth (connection to 156<sup>th</sup> Street NE, East-West alternatives to 172<sup>nd</sup> Street NE). A new bicycle network would connect to neighborhoods. There would be a new dense and continuous pedestrian network. New trail connections to key local and citywide destinations. There are newly proposed and enhanced connections to: schools, parks/trails, shopping areas, the rest of the city (East of I-5), and rural areas. The intent is to make this a true walkable neighborhood.

Chair Leifer asked who pays for the right of way acquisition when the state owns it, but the City is trying to drive development. Planning Manager Holland explained that it would come from development. He explained that if improvements are included in the traffic impact fee calculations, credit would be given to the developer.

Planning Manager Holland commented that only two people have commented on the webpage. Comments received were included in the Planning Commission's packet. His perception was that the meeting on October 21 was a positive one where residents were able to get their questions answered.

Next Steps: The Draft Master Plan should be available in December or Early January for public review and comment followed by review and potential approval by the Planning Commission.

#### B. Arlington-Marysville Manufacturing Industrial Center Market Study

Community Development Director Koenig noted that the City of Marysville and Arlington have been working together to get the MIC designation as a regional MIC. It was rejected the first time it was submitted to the PSRC (Puget Sound Regional Council) which is the group that allocates out federal funding to the region. They also created the Vision 2040 Plan. He commented that on PSRC's website, anywhere north of Everett isn't even recognized. PSRC is relooking at the criteria. The City wants to be proactive and update the data and do a marketing study. The study is being done jointly with Arlington by Community Attributes. Staff will be keeping the Planning Commission up to date as the study is done. They are hoping for a report by the consultants in March of 2016.

Commissioner Hoen asked why PSRC didn't extend their map into Marysville. Director Koenig replied that Marysville has never been recognized by the PSRC even though Marysville has been rapidly growing and is the fastest growing city in Snohomish County. Additionally, the PSRC changed the criteria for Manufacturing Industrial Centers. The City is working closely with PSRC to get the recognition. Director Koenig explained that Marysville worked to get SB 5761 passed which would allow for manufacturing development to take advantage of 10-year exemption from property taxes for buildings that meet certain criteria. As part of this the county has to agree to exempt the county property tax also. He added that this is a test case in the state. The law requires Marysville to hold a public hearing after notice to all the property owners in the proposed area. Then it is established by a Resolution and implemented by an ordinance. Right now they are waiting on the county's action on this following changes in the representation there.

Chair Leifer said he thought they had reached the job count threshold when they had adjusted the boundaries. Community Development Director Koenig explained that Snohomish County had approved it as recommended by Snohomish County Tomorrow, but it didn't meet the strict criteria established by the PSRC even though there were other MICs with a lower threshold that had been recognized by the PSRC. Planning Manager Holland added that when they were running the numbers there was a threshold of existing jobs where the City fell short.

Director Koenig announced that Engineering Services Manager Shawn Smith has resigned to be the City Engineer for Stanwood. The position will be advertised.

Planning Manager Holland noted that John Cowling has also left the city and will be the City Engineer in Mountlake Terrace.

## **OLD BUSINESS**

## **CITY COUNCIL AGENDA ITEMS AND MINUTES**

## **ADJOURNMENT**

**Motion** made by Thetford, seconded by Commissioner Richards, to adjourn the meeting at 8:52 p.m. **Motion** passed unanimously.

## **NEXT MEETING:**

January 12, 2015

  
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Chris Holland, for Laurie Hugdahl, Recording Secretary

# PLANNING COMMISSION



# MINUTES

**March 22, 2016**

**7:00 p.m.**

**City Hall**

## **CALL TO ORDER**

Chair Leifer called the March 22, 2016 meeting to order at 7:03 p.m. noting the excused absence of Kelly Richards and Tom Thetford and the fact that Steven Lebo has resigned as the result of moving. He stated that the Commission was sad to see Steven Lebo leave and that he did a great job when he was here.

### Marysville

**Chairman:** Steve Leifer

**Commissioners:** Roger Hoen, Jerry Andes, Kay Smith

**Staff:** Planning Manager Chris Holland, Community Development Director Dave Koenig, Associate Planner Angela Gemmer

**Absent:** Kelly Richards, Tom Thetford

## **APPROVAL OF MINUTES**

Tuesday, March 8, 2016

**Motion** made by Commissioner Smith, seconded by Commissioner Andes, to approve the March 8, 2016 Meeting Minutes as presented. **Motion** passed unanimously (4-0).

## **AUDIENCE PARTICIPATION**

None

## **NEW BUSINESS**

A. State Avenue Corridor Subarea Plan – Survey Results

Associate Planner Angela Gemmer gave an update on the State Avenue Corridor Subarea Plan. She explained that State Avenue is the most challenging corridor in the

City of Marysville. It is very long and has a variety of land uses. The City wants to improve the quality of life, encourage economic growth and enhance the image of the community by improving State Avenue. The City also needs to accommodate additional growth and trigger redevelopment. The Plan is being developed as there is a huge capacity for redevelopment with a variety of land uses. This is not expected to happen overnight, but it would ensure that development happens as desired. The City also needs to plan for the future of increased transit service and Community Transit's Swift Bus Rapid Transit. The purpose of the Plan is to establish a consensus of the community's vision for the corridor, identify redevelopment opportunities, and address transportation needs and requirements. Areas of concern include: the character of future development, how to integrate housing/mixed use; transportation needs and opportunities; aesthetics/urban design; relationship between corridor and abutting neighborhoods; and improving quality of development. The City is hoping to get a vision for the corridor, a revised land use plan, transportation plan to support land use, a public investment project list, and improved relationships with adjacent neighborhoods, businesses, and residents. Without a plan State Avenue may not improve over time, the City might miss opportunities related to Community Transit's Swift Bus Rapid Transit service and redevelopment in the corridor.

Since the beginning of the year the City has conducted a survey to obtain feedback from the community and stakeholders. 176 surveys have been completed to date. Results have shown that there is a lot of interest in improving State Avenue as it is an important corridor for transportation and commerce. Ms. Gemmer reviewed the survey results. A majority of respondents felt it was important to plan for State Avenue. The top categories of survey takers were people who travel on State Avenue, live on or near State Avenue, shop on State Avenue, and interested citizens. Within the next five years, changes people would most like to see are synchronization of traffic lights and better traffic flow, updated buildings, continuous safe sidewalks, crosswalks, things that will enhance the overall pedestrian experience, fewer societal problems, beautification of streets, the missing gap between 100<sup>th</sup> to 116<sup>th</sup> widened to five lanes, and better building and landscape maintenance.

The things people like the best about State Avenue are that it is a direct north-south route that connects Everett to Smokey Point via Marysville; the decorative lighting; ease of travel/decent traffic flow and signal timing; it is a retail core, there is a variety of different retail and services available; and Comeford Park, particularly the revitalization of the Spray Park. Areas people would like to see more of include: Comeford Park/Spray Park; the decorative lighting, wide sidewalks/walkable areas, 3<sup>rd</sup> Street business area, and small town charm. People would like to see more quality, diverse retail; quality dining/restaurant options; mixed use; parks, open space, and trails; and small local retail. People would like to see less residential on State Avenue. This is consistent with the existing plan. They would also like to see less commercial, auto dealerships, empty/vacant buildings, strip malls, and smoke shops.

Chair Leifer commented that this comprises everything that could potentially be on State Avenue. There was discussion about the open-ended nature of the survey which led to such a variety of responses.



Specific areas where respondents could envision mixed use centers included: the downtown core/first through fourth Streets; 116<sup>th</sup> Street and vicinity; 88<sup>th</sup> Street Area; North end towards Smokey Point, and Grove Area. Areas that are visually appealing include the Mod Pizza/Coastal Community Bank; Renovated Walgreens Corner; Comeford Park; Ebey Waterfront Park; Renovated Downtown Street; other areas with Street Trees, decorative lighting, and flowers; downtown generally; landscape medians north of 136<sup>th</sup>. Commissioner Andes commented that business owners were opposed to the medians, but people really enjoy them.

Ms. Gemmer continued to review the survey. She noted that areas that are visually unappealing include any buildings that are not maintained well. Some people feel the whole corridor is not visually appealing. Burned out and abandoned buildings, panhandling areas, trailer parks, and motels were also cited as unattractive aspects. When asked what other commercial corridors in other cities that people like, Mill Creek was most highly cited followed by Snohomish, Edmonds, Arlington, Redmond, and Lynnwood.

Commissioner Andes pointed out that the key to some of those commercial corridors is that they actually have a downtown. He also pointed out that Mill Creek was completely built from the ground up as a planned community, not redeveloped. Ms. Gemmer agreed, but commented there might be aspects of it that could be incorporated. Planning Manager Holland added that if the City puts in money to the downtown area to make it attractive, it might create the momentum needed to revitalize the area. There is an opportunity to incorporate new development in the south end. Commissioner Andes asked if the City would reconsider the existing plans based on the responses from the community favoring smaller scale development. Planning Manager Holland affirmed that staff is planning on looking at those plans again. Community Development Director Koenig commented that there might be different-sized buildings in different areas on the corridor.

The corridor features people find most desirable include quality, diverse retail options, walkability and pedestrian amenities, quality and diverse dining options, well-maintained and clean, inviting atmosphere, and a welcoming small town charm. Improvements that would make living along State Avenue more attractive would include more attractive storefronts, maintaining what is already there, reducing crime and social problems, better pedestrian amenities and walkability, more landscaping and better landscaping maintenance, and better traffic management and signal synchronization. Opportunities for recreational space include the Ebey Waterfront Park expansion/Ebey Slough; trails in various locations, small parks interspersed throughout the community, and expanded uses at Comeford Park/Spray Park/Ken Baxter Community Center.

People generally travel within the State Avenue Corridors by using a personal vehicle; walking/running; carpool/vanpools; bicycle; and bus/transit. The majority of people think that opportunities for transit and pedestrians along State Avenue should be improved. The most desired transit and pedestrian improvements include: improved sidewalks and trails; bus pull outs/fewer traffic disruptions; reduced crime and transit

presence/enhanced safety; bus shelters/covered seating areas; improved commuter and general transit service.

Commissioner Hoen asked who is responsible for the bus stops. Ms. Gemmer explained Community Transit is responsible for those. Commissioner Hoen commented that many of those stops have no shelter and are just trampled spots of grass with a pole. Planning Manager Holland agreed and explained that there is not necessarily right of way behind the sidewalk where you could put in a weather-covered facility. It's more common to see a pole with a couple seats on it. Community Transit would have to acquire property in order to put in the weather-covered areas. He pointed out, however, that over the last ten years Community Transit has been more responsive to requests for development proposals.

Land uses that people would like to see near transit stops include: covered shelters with adequate seating; coffee shops/cafes/restaurants; bus pull outs/ traffic flow measures, pedestrian connections and enhanced walkability, and better lighting. Ms. Gemmer reviewed the proposed changes in Community Transit Swift Service. Potential locations include the intersections of State Avenue/Smokey Point Boulevard and: 1<sup>st</sup> Street, Grove Street, 84<sup>th</sup> Street, 100<sup>th</sup> Street, 116<sup>th</sup> Street, 128<sup>th</sup> Street, 156<sup>th</sup> Street, and 164<sup>th</sup> Street.

Planning Manager Holland explained how the Swift buses operate to provide very rapid service. Chair Leifer asked if the cost of bus tickets covers the cost of operations. Community Development Director Koenig replied that they are all subsidized from sales tax. He noted that with the latest bond that passed there will be some expanded service in Marysville. There will also be a Swift line that serves as an east-west connection to Boeing. Community Transit expects that with the expanded service which will provide service for a larger part of the day that transit will be available in the City. This is expected to increase their ridership by 40%. He offered to have Community Transit come explain their new service. There was consensus among the Planning Commission that this would be beneficial.

Associate Planner Gemmer reviewed the Community Transit service expansion plans. They will be seeking community input, but two new routes are proposed. One will provide connection from Lake Stevens to Tulalip/ QuilCeda Village. The other will provide connectivity from Lake Stevens to Snohomish to Cathcart and Mariner & Ash Way. Hours on certain routes will be expanded and additional stops may be added.

Planning Manager Holland discussed current and future transportation improvements:

- State Avenue widening (116<sup>th</sup> to 136<sup>th</sup> Street) - This is almost complete.
- State Avenue widening (100<sup>th</sup> to 116<sup>th</sup> Street NE) - The City is actively pursuing funds. Crossing of QuilCeda Creek will be a challenge.

- SR 529 and I-5 Interchange – This has been funded in the State Transportation Tax. Recently the state legislature has combined this project with an additional lane from Everett into Marysville. Commissioner Hoen asked if they will be expanding the freeway. Planning Manager Holland replied that they will be restriping to create a new lane.
- First Street Bypass – The City is actively seeking acquisition of property to make this happen. 1<sup>st</sup> Street improvements would improve pedestrian and traffic safety, reduce stormwater and beautify the corridor from State Avenue to Cedar Avenue.
- Grove Street Pedestrian and Bicycle Improvements – This should be moving forward soon. This is on Grove Street between State Avenue and Cedar Avenue.
- Marshall Elementary Safe Routes to Schools (116th Street NE) – This is a funded project which will do sidewalk improvements all the way from a little east of Marshall Elementary all the way to State Avenue. The City will install curb, gutter, and sidewalks to give kids a safe way to get to school. It is funded in part by the WSDOT Safe Routes to School and the Transportation Benefit District. Commissioner Hoen commented on challenges with parked cars waiting to pick up kids which forces other drivers into the other lane. Chris Holland commented they are working with the school district to try to implement a new route for parents to pick up kids. They have implemented that, but parents don't like to wait in line. He noted that when the school in Tulalip was closed and those kids moved to Marshall it created a tremendous increase in traffic in that area. The City is constantly monitoring this and trying to come up with new solutions.
- 3rd Street and 1st Street Improvements – The City received funds from DOE for these improvements, which include LID Stormwater improvements.
- SR 528 Pedestrian Signal – This is funded by CDBG Funds and will be a signalized pedestrian crossing to Asbury Field across 528. The City will construct a High-Intensity Activated Crosswalk (HAWK) pedestrian signal on SR 528 between State Avenue and 47<sup>th</sup> Avenue NE.
- Pedestrian and Bicycle Improvements in Comprehensive Plan – This will allow the city to fill in the gaps and complete sidewalks and pedestrian connections along State Avenue and along major roadways that intersect with State Avenue.

Commissioner Smith referred to flashing yellow lights she noticed tonight at a pedestrian crossing on Grove. She asked if there will be more of those. Planning Manager Holland explained that there will be more added as well as other traffic calming measures. He offered to have Public Works provide a description of what they are doing.

Commissioner Smith asked how many pedestrian accidents there are where the pedestrian is actually in the crosswalk. Planning Manager Holland said he would find out and bring that information back.

Commissioner Hoen commented that one of the slides said people appreciate the ease of travel on State Avenue. That is not consistent with what he heard in the public meeting. Planning Manager Holland stated that the people who commented may be commuters to Seattle, or Bellevue, so State Avenue is relatively an easy corridor to travel comparatively..

Commissioner Hoen then asked what Chair Leifer had stated in a previous meeting would be a good bypass for State Avenue. Chair Leifer noted that he had been talking about 51<sup>st</sup> Street. He explained that the Planning Commission had its ideas shot down by the consultants, but he still believes this is a good idea. He recommended making 51<sup>st</sup> a five-lane boulevard to get people away from State Avenue and 67<sup>th</sup> and get them down to the south end of town. This would be one of the easiest routes to expand of any of the routes in the City as far as north-south corridors. He thinks the City is missing out on a great opportunity to get people in and out of town. He believes the traffic experts are wrong on this and not paying attention to what is really happening on the ground.

Community Development Director Koenig offered to have Public Works come in to discuss this. Chair Leifer indicated he would appreciate that.

Community Development Director Koenig explained that an additional project on 156<sup>th</sup> is being planned because of a behavioral health hospital that is being planned.

Chair Leifer asked if there are still plans to tie 156<sup>th</sup> to 152<sup>nd</sup> at 51<sup>st</sup>. Planning Manager Holland replied that it will be a little west of 51<sup>st</sup>, but it will tie in.

Commissioner Hoen asked what kind of plans Marysville has to make the I-5/529 Interchange a welcoming portal to Marysville. CD Director Koenig said this is part of the consideration in the waterfront park discussions. There is a proposal for a building there that would be a couple stories tall so you could see it from the new bridge. The City is also acquiring property on the south side as well as doing park improvements in that area. Commissioner Hoen recommended a *Welcome to Marysville* monument or Structure. CD Director Koenig commented that would probably be part of the development of the waterfront park. There is nothing finalized at this point though. He agreed that this will be very important.

Commissioner Hoen commented that the higher-priced houses near him have been purchased by people who have been squeezed out of the price range in Mill Creek. CD Director Koenig commented that staff is also following this trend. Marysville is one of the few areas in the region that still has land available for single-family homes. There was discussion about the high housing prices in the region. He commented that Marysville has over 500 lots in various stages of development in the City. He commented that there is also a significant number of plats that are about to expire, but it is unclear yet what will happen to those plats.

Chair Leifer noted that State Avenue used to be Old Highway 99 within the city limits of Marysville. He asked how this changed and where the official start and stop of State Avenue/ Smokey Point Blvd is now. Planning Manager Holland said it is 136<sup>th</sup>. Commissioner Hoen noted there is a brown Smokey Point Boulevard sign at 116<sup>th</sup>.

#### B. Lakewood Master Plan – DRAFT Design Standards

Planning Manager Holland reviewed the draft design standards for the Lakewood Master Plan. He discussed the purpose and intent of the design standards. He explained the design standards would build upon the existing design standards currently implemented in the City. He highlighted the changes to the Residential Design Standards and Commercial Design Standards as contained in the PowerPoint presentation provided and solicited feedback from the Planning Commission.

Chair Leifer asked if the separation standard between the high groundwater table and the bottom of a detention facility would change with adoption of the 2012 Western Washington Stormwater Management Manual. Planning Manager Holland replied the City changed it to from the five feet required in the Manual to three feet, but commented that he was uncertain if that would change with adoption of the new manual. Public Works will be bringing that to Planning Commission for vetting purposes. Chair Leifer asked if the City would be trying to circumvent those regulations again. Planning Manager Holland indicated he wasn't sure, but offered to look into it.

Planning Manager Holland summarized that the most significant proposal is the design around the connectivity. He pointed out that the standards would be written up for administrative exceptions so that each site can be looked at individually.

Commissioner Andes asked about revisiting the rules relating to Mixed Use because the Planning Commission had previously recommended limits on business percentages allowed on the first floor. Planning Manager Holland didn't recall anything in the design standards limiting the percentage other than the 88<sup>th</sup> Street Mixed Use which is not citywide. He said he would research and provide clarification to the Planning Commission.

Chair Leifer asked if the Mixed Use Zone would allow a five-story building. Planning Manager Holland replied it would only be allowed in the downtown area. The rest of the Mixed Use Zone would only allow four-story.

### **CITY COUNCIL AGENDA ITEMS AND MINUTES**

Director Koenig had the following comments:

- He stated that Parks Director Ballew would be interested in comments on the Parks plan. Commissioner Smith asked about a joint meeting between the Parks Department and Planning Commission. Director Koenig indicated he would look into that.

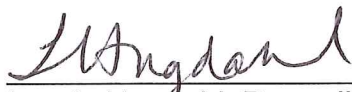
- The City Council will be putting out a scientific survey to find out how residents feel about services in the City.
- Doug Van Gelder has been hired as a replacement engineer for Shawn Smith.

## ADJOURNMENT

**Motion** made by Commissioner Smith, seconded by Commissioner Hoen, to adjourn the meeting at 9:31 p.m. **Motion** passed unanimously.

## NEXT MEETING:

April 12, 2016 – Lakewood Neighborhood Master Plan & Design Standards



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Laurie Hugaahl, Recording Secretary

# PLANNING COMMISSION



# MINUTES

May 10, 2016

7:00 p.m.

City Hall

## CALL TO ORDER

Chair Leifer called the May 10, 2016 meeting to order at 7:00 p.m.

### Marysville

**Chairman:** Steve Leifer

**Commissioners:** Roger Hoen, Jerry Andes, Kay Smith, Kelly Richards,

**Staff:** Planning Manager Chris Holland, Community Development Director Dave Koenig, City Engineer Jeff Laycock, Traffic Engineer Jesse Hannahs

**Absent:** Tom Thetford (excused)

## APPROVAL OF MINUTES

### April 26, 2016 Planning Commission Minutes

**Motion** made by Commissioner Smith, seconded by Commissioner Richards, to approve the April 26, 2016 Planning Commission Meeting Minutes as presented.

**Motion** passed unanimously (5-0).

## AUDIENCE PARTICIPATION

None

## NEW BUSINESS

A. Information – Traffic Calming and Rectangular Rapid Flash Beacon (RRFB)

Traffic Engineer Jesse Hannahs responded to the March 22 Planning Commission meeting questions regarding Rectangular Rapid Flashing Beacons (RRFB), Pedestrian

Collisions and Traffic Calming as described in his memo to the Planning Commission dated May 4, 2016.

B. Information – 51<sup>st</sup> Avenue NE (3-lane vs. 5-lane)

City Engineer Jeff Laycock responded to an earlier Planning Commission request for more information about 51<sup>st</sup> Avenue NE Corridor – 3-lane versus 5-lane section. He explained that five lanes would be significantly more expensive than three lanes. It could double or even triple the cost due to the proximity of structures to the road, driveways, the need to purchase additional right-of-way, reconstruction costs of 3-lane to 5-lane road, and critical area impacts. Additionally, 51<sup>st</sup> Avenue NE is planned to be the City's primary north-south bicycle route with dedicated bicycle lanes and adequate sidewalks. Widening to 5-lanes will minimize safety for bicyclists and pedestrians. He noted that the 2015 Transportation Update evaluated the 51<sup>st</sup> Avenue NE corridor and determined that the 3-lane section has sufficient capacity beyond the planning year identified in the document.

Chair Leifer expressed concern about the impact of the trains on the east-west transportation plans. City Engineer Laycock acknowledged that the trains are an issue, and discussed preferred locations for an undercrossing and an overcrossing. Grove Street is a preferred location for an overcrossing, but it comes at a pretty significant cost of about \$22 million. Chair Leifer commented that the cost for that one crossing is almost half of the cost of the 51<sup>st</sup> corridor from the airport to 1<sup>st</sup> Avenue.

Chair Leifer noted that Highway 9 started being an unlimited access freeway and is becoming a calmed down corridor where people will be driving about 35 mph for the most part. He agrees with the idea of getting east-west mobility for traffic to go across the valley, but he questions whether a lot of the people that want to go south towards Lynnwood or Seattle will head toward Highway 9. He thinks they will want to get onto the freeway but traffic is all backed up going that direction because of the railroad problem. It's not going to be effective without several crossings from Grove to Smokey Point. He commented that the fact all these projects cost money and have drawbacks is a given. He stated the question really should be what ultimately is going to be the best system to transport people out of town via I-5, either south or north. He said he didn't think the east-west enhancement program is going to solve the problems because of issues with Highway 9 and issues crossing the tracks.

Mr. Laycock commented that a lot of money is being provided for at-grade rail crossings so he thinks the chances of getting funding for those larger overcrossing projects like Grove are good. Staff has evaluated 88<sup>th</sup> Street every way they can, but there are many constrictions. Traffic Engineer Jesse Hannahs reviewed the three planned locations providing east-west connectivity. City Engineer Laycock continued to explain that the City needs to focus on completion of north-south improvements and direct attention to the improvements on WSDOT highways. These projects include: completion of State Avenue from 100<sup>th</sup> to 116<sup>th</sup>, completion of intersection capacity projects at State Avenue & 88<sup>th</sup> Street NE and State Avenue and 116<sup>th</sup> Street NE intersections. Improvements in the form of new ramps at SR 529, a SPUI at 116<sup>th</sup>, 88<sup>th</sup> Street NE and 156<sup>th</sup> Street NE



will facilitate improved access to and from I-5. SR 9 access and recent improvements include over \$300 M in investment through Snohomish County. This includes the new roundabout at SR 531, 84<sup>th</sup> Street NE, and widening from SR 92 to Soper Hill Road. City will continue to work with WSDOT on improvements to SR 9 to accommodate future traffic projections.

Commissioner Andes asked why a crossing at 1<sup>st</sup> hadn't been considered. Staff explained that it had been studied, but there were some issues with plans to redevelop that area.

Chair Leifer summarized that the likelihood of any substantial improvements over the railroad other than possibly Grove is very unlikely. Jesse Hannahs agreed that Grove was the most feasible and cost-effective. All of the other locations had significant costs and impacts. Chair Leifer recalled state plans to build an interchange up and over the railroad on his family's property when he was a child that never materialized. He commented this is the type of solution that is needed in about three places between Grove and 136<sup>th</sup>, if crossing over the railroad from State Avenue to I-5 is going to be an adequate solution.

Commissioner Andes asked if the City is planning on doing a flyover over the freeway as well. Mr. Laycock replied he has looked at that, but for now it is not an option.

#### C. Code Amendment – Marijuana Regulations

Planning Manager Chris Holland explained that marijuana regulations continue to change. In July the medical and recreational marijuana regulations will be regulated under I-502. As a result, amendments were recommended to the public nuisance code, definitions to simply reference as defined in state law, including new definitions for "marijuana," "marijuana concentrates," and "marijuana cooperative" and amendments to the permitted use matrix showing that marijuana cooperatives are not a permitted use.

Planning Manager Holland indicated that he would bring this back for a public hearing in June and then, if approved, it would go to Council in July.

### **OLD BUSINESS**

#### A. Lakewood Neighborhood Master Plan & Design Regulations

Planning Manager Holland made a PowerPoint presentation on the Lakewood Neighborhood Master Plan and Design Regulations. He discussed the purpose, the assets of the area, land capacity statistics, and zoning. He explained the Lakewood Vision focuses on three major topics: transportation improvements, utility infrastructure, and Urban Design Guidelines. Details about the following transportation improvements were also discussed:

- 172<sup>nd</sup> Street NE Improvements

- 169<sup>th</sup> Street NE Connection – from new roundabout at 172<sup>nd</sup> Street NE and 23<sup>rd</sup> Avenue NE to 27<sup>th</sup> Avenue NE
- Intersection at 172<sup>nd</sup> Street NE and 27<sup>th</sup> Avenue NE
- 156<sup>th</sup> Street NE Interchange
- 172<sup>nd</sup> Improvements – 19<sup>th</sup> Avenue NE to 27<sup>th</sup> Avenue NE
- 172<sup>nd</sup> Improvements – 16<sup>th</sup> Drive NE to 19<sup>th</sup> Avenue NE
- 172<sup>nd</sup> Improvements – 13<sup>th</sup> Avenue NE to 16<sup>th</sup> Drive NE
- 172<sup>nd</sup> Improvements – 11<sup>th</sup> Avenue NE to 13<sup>th</sup> Avenue NE
- Neighborhood Roadway Network – 174<sup>th</sup> Street NE, 176<sup>th</sup> Street NE, 23<sup>rd</sup>/25<sup>th</sup> Avenue NE, 19<sup>th</sup> Avenue NE, 27<sup>th</sup> Avenue SE, 23<sup>rd</sup> Avenue NE, 19<sup>th</sup> Avenue NE/169<sup>th</sup> Street NE, 25<sup>th</sup>/27<sup>th</sup> Avenue NE, 156<sup>th</sup> Street NE and Interchange, 156<sup>th</sup> Street NE Multiuse Connection to Centennial Trail, Twin Lakes Avenue, 156<sup>th</sup> /Twin Lakes Avenue
- Neighborhood Roadway Network – new road section with bike lanes (Option 1 with LID and Option 2 without LID)

Planning Manager Holland explained that many of the improvement projects are eligible for credits towards traffic impact fees, including engineering and construction. These include: 19<sup>th</sup> Avenue NE/169<sup>th</sup> Place NE, 23<sup>rd</sup> Avenue NE, 25<sup>th</sup>/27<sup>th</sup> Avenue NE, 27<sup>th</sup> Avenue Extension, 27<sup>th</sup> Avenue NE, 156<sup>th</sup> Street NE Interchange, 156<sup>th</sup> Street and 27<sup>th</sup> Avenue NE, 156<sup>th</sup> Street NE, 172<sup>nd</sup> Street NE and 19<sup>th</sup> Avenue NE, and 172<sup>nd</sup> Street NE. Also included in the Plan are proposed bicycle and pedestrian networks. He then reviewed the proposed utilities improvements within the Lakewood Neighborhood for sewer, water, and stormwater, explaining the limitations of each.

The Urban Design Guidelines build upon existing design standards outlined in the MMC. They require pedestrian and bicycle connections. There are guidelines for properties facing parks, trails and open space. The guidelines provide for “Lakewood Community Overlay” areas encouraging adaptive reuse of existing buildings over time to maintain a rural crossroad character. It requires buildings to orient to the human-scale local streets, provides for Pedestrian-Oriented Public Areas Designations, high quality common open space with new multi-family development, and comfortable pedestrian routes that connect Lakewood-wide “active transportation” network. Commercial buildings will be required to provide a well-defined streetscape, have pedestrian-oriented facades, weather protection over building entries, pedestrian sidewalks required between parking lots and storefronts. Smaller building elements would be required near the entry of large buildings in order to maintain human scale. It also requires detail elements such as decorative use of windows and change in materials. The emphasis is to build on existing character and to have active ground floors on specific street segments.

Planning Manager Holland summarized that the Draft Plan and Design Guidelines were released in April for public review and comment. No public comments have been received, but staff is expecting some back soon. Comments from city staff will be incorporated. The Department of Commerce has this for 60-day review until June. The Plan and presentations can be accessed on the city website. A Planning Commission

hearing will be held on June 14<sup>th</sup> or June 28. The City Council will hold a workshop and meeting on this in July.

Chair Leifer asked if the zoning in the area is pretty much where it ought to be. Planning Manager Holland stated yes, but there is a concern that the mixed use seems to be getting more multi-family only instead of true mixed uses. However, this acts as a transition area from General Commercial near the freeway to the multi-family/mixed use. The densities are pretty high and complement what is already out there. Chair Leifer asked if the zone changes would be automatically incorporated or if they would have to go through the Comp Plan amendment process. Planning Manager Holland replied that a change in land use doesn't seem to be warranted at this time. What is being discussed is consistent with what was adopted in the 2015 update. If any changes to land use are desired those would best be done in the annual update.

Commission Hoen asked about Arlington's plans to expand 172<sup>nd</sup> between the Wal-Mart and the airport. Planning Manager Holland replied that the state has been collecting impact fees and has a plan for that. He wasn't sure of the details. Commissioner Hoen commented that it wasn't consistent with what is going to happen on the other side of the freeway. Planning Manager Holland noted that the City of Arlington had approached the City about utilizing what Marysville has put together for this area.

Community Development Director Koenig thanked Planning Manager Holland for his work on this. He also noted that Brandon Whitaker was appointed to the Planning Commission last night by the City Council. He reviewed his background and experience.


## **CITY COUNCIL AGENDA ITEMS AND MINUTES**

### **ADJOURNMENT**

**Motion** made by Commissioner Richards, seconded by Commissioner Smith, to adjourn the meeting at 8:56 p.m. **Motion** passed unanimously.

### **NEXT MEETING:**

May 24, 2016

  
 Chris Holland, Planning Manager, for Laurie Hugdahl, Recording Secretary

# PLANNING COMMISSION



# MINUTES

**September 13, 2016**

**7:00 p.m.**

**City Hall**

## **CALL TO ORDER**

Chair Leifer called the September 13, 2016 meeting to order at 7:00 p.m.

### Marysville

**Chairman:** Steve Leifer

**Commissioners:** Roger Hoen, Kelly Richards<sup>1</sup>, Jerry Andes, Kay Smith, Tom Thetford, Brandon Whitaker

**Staff:** Planning Manager Chris Holland, NPDES Coordinator Brooke Ensor

**Absent:** None

## **APPROVAL OF MINUTES**

### **July 26, 2016 Planning Commission Minutes**

**Motion** made by Commissioner Smith, seconded by Commissioner Andes, to approve the July 26, 2016 Meeting Minutes.

Commissioners Hoen and Thetford abstained as they were not present at the meeting.

**Motion** passed unanimously (4-0).

## **AUDIENCE PARTICIPATION**

### **NEW BUSINESS**

#### **Low Impact Development (LID) – Code Amendments**

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<sup>1</sup> Commissioner Richards arrived at 7:03 p.m.

NPDES Coordinator Brooke Ensor gave an overview of permit requirements, reviewed the process, gave a summary of proposed changes, and discussed implementation considerations as described in the PowerPoint presentation handout.

Commissioner Whitaker asked how many staff members are devoted to implementing the NPDES permit. Ms. Ensor replied that there are about five people. Commissioner Whitaker asked if staff foresees any potential sampling requirements coming our way. Ms. Ensor replied they are just starting the 2018 NPDES discussions. The City currently does fecal bacteria testing and testing as needed for illicit connections. One of the things that might potentially be added is a source control inspection. The City has been doing some of these through a grant with Ecology and in partnership with the Health District. Commissioner Whitaker asked if the City has pursued any additional grants. Ms. Ensor replied they have gotten quite a few. Chris Holland added that 3<sup>rd</sup> Street LID Improvements from State Avenue to 47<sup>th</sup> is one grant; another grant is for 1<sup>st</sup> Street LID improvements.

Commissioner Whitaker asked about the letter from Puget Sound Keeper Alliance. Ms. Ensor replied the first one appeared to be a form letter. The second one indicated they were concerned about the process, but the City hadn't begun work yet so Puget Sound Keeper Alliance hadn't actually seen the City's codes. She stated that the City is following the process and topic review that has been laid out by Ecology.

Commissioner Thetford referred to the last slide regarding training staff and asked about the "different standards". Ms. Ensor explained that this refers to the new 2012 Stormwater Manual.

Commissioner Andes noted that it appears that there will be additional time and expense for developers. He asked about feedback the City has received from developers. Ms. Ensor replied in some situations it might raise costs, but in some situations it might reduce costs. She noted they are already seeing a lot of LID development going in so she wasn't sure if there would be much of an impact. Chris Holland stated that the feedback he has been getting from several clients who have come in after Council approved the Ordinance on the subdivision extensions is that they want to go through the process right away to make sure that they are still under the old code. He added that staff would like feedback on the proposal to remove the incentive for LID's. Commissioner Andes suggested that any incentives they might give someone could offset the costs to achieve the standard.

Chair Leifer noted that part of the implementation process for the new 2012 requirements is to get input from public. He asked how this would happen. Ms. Ensor replied that this meeting is part of that process. Additionally, they are soliciting public input on the proposed code changes. The 2012 Stormwater Manual comments have been closed for a while. Chair Leifer asked about options the City has besides adopting the 2012 Manual. Ms. Ensor replied that if they wanted to adopt one of the Phase 1 manuals, they could, but Ecology will only issue equivalency for the Phase 1's. The City has stuck with the 2012 Manual because it is really similar to what the City is already implementing. There are some gaps that Ecology doesn't address, so the City has tried

to include those in the City's code. As an example, she discussed separation requirements with regard to permeable pavement.

Chair Leifer expressed concern that the kind of interpretation Ms. Ensor described for separation requirements would seriously impact the cost to developers and owners in the Manufacturing Industrial Center. Ms. Ensor explained that is a big reason they have been doing regional detention work is so there is a lot of capacity for that industrial area. Chair Leifer expressed concern and stated it is imperative that the City gets comments on this and that the Planning Commission get involved in this. Chris Holland stated that all of the proposed code amendments are up for review right now. The amendments that the Planning Commission has authority to review and make recommendations to Council on is for the amendments to Title 22. Changes to Title 14 or the Engineers Design and Development Standards is Council's review and decision authority. He added that they are all available online and staff will be required to address any comments or concerns. The Planning Commission is welcome to submit comments to the Council.

Chair Leifer expressed concerns regarding any new requirements related to stormwater separation requirements for the high groundwater and that it appears that the mound cannot penetrate the reservoir. Ms. Ensor noted that is something they have been talking about internally and have discussed it with the Ecology engineers because this is one of the gaps they found in the Manual. What staff was able to determine was that the intent was that the mound could reach your facility bottom, but the most important thing was to make sure that your draw down time on the facility was not exceeded. This section has been updated with that in mind. Chair Leifer said he hoped they could get that particular issue resolved because it is really critical.

Chair Leifer expressed concern about a conflict with the landscape code. He stated they need to look at the type of plantings they are calling out in the landscape code and make sure they are the right kind of shrubs and trees that won't impact the drainage system. Planning Manager Holland stated that the particular plants aren't outlined in the code, just the categories of buffers and number and spacing of plants, shrubs and groundcover. He thought the landscape code would fall under the review of the Planning Commission so that could be addressed in the future. As far as the other parts of the code the commissioners should provide comments on their own. He stated it would fall upon the landscape architects to make decisions that wouldn't negatively impact the development. Ms. Ensor stated that Ecology has come out with a Recommended Tree List which is weighted more toward conifers for several reasons.

Planning Manager Holland asked the Planning Commission to send back any questions or comments they have before the next meeting, so that staff has adequate time to research and provide answers.

## **OLD BUSINESS**

Lakewood Master Plan – Future Road Connections (PowerPoint Presentation)

Planning Manager Holland stated that staff has reviewed the comments submitted by Land Technologies. He reviewed planned connector roads in that area.

Commissioner Thetford asked if everything east of the Burlington-Northern tracks is Tulalip property. Planning Manager Holland stated that it is mostly private ownerships, but the Tribes bought the plant farm. Commissioner Thetford asked why they wouldn't build an access on the west side and not have the overcrossing issue. Planning Manager Holland noted that all of that area is outside of the City's Urban Growth Area within unincorporated Snohomish County and is zoned rural, with a RUTA (Rural Urban Transition Area), overlay, however, Snohomish County recently rescinded the RUTA overlay.

Staff will be looking for recommendations from the Planning Commission on connections. Land Technologies discussed all the difficulties constructing connection number 3 identified on the map because of the difficulties getting through the tribal properties. The letter proposed two alternate routes that they feel would be more likely to succeed. Staff is in support of the No. 1 and 2 road connections with the 156<sup>th</sup> overpass and utilizing the existing roads at 19<sup>th</sup>, 23<sup>rd</sup>, and the extension of 156<sup>th</sup> out to the 45 Road as well as utilizing Twin Lakes Avenue for a potential additional future connection over the railroad in the future, if necessary. Staff supports elimination of the No. 3 concept.

Commissioner Richards noted that there is an interstate on ramp but no off ramp on the other side shown on the map. Planning Manager Holland noted it would be a full interchange, but it just wasn't all shown there.

Chair Leifer reiterated he has been following this issue for a long time. He expressed concerns that the Planning Commission should get the best possible configuration possible before they send it on. They need to look to the future and coordinate as best as they can with other jurisdictions and other cities. He said he has come up with some additional options that he would like to be considered by staff and the Planning Commission. He distributed a drawing showing those options. He stated his drawing incorporates the three sets of options that Merle Ash brought up. Option 1 represents the north-south corridor on the west side of the railroad. Option 2 is a north-south corridor on the east side of the railroad in the city limits. He reviewed his options in detail explaining why they should be considered.

He said he reviewed the City of Marysville Lakewood BNSF Railroad Overcrossing Project study done by Berger-Abam in 2006. In that study, the crossing No. 3 over the rail was about a \$19-23 million project just for the bridge which makes it unfeasible. The almost perpendicular crossing at 156<sup>th</sup> is much cheaper. When he looked back there were about twelve alternatives, and all of them were dropped except three. One of those was the overpass which wasn't there when this study was done, but it is there now. The conclusion was that a crossing directly over 156<sup>th</sup>, along with the I-5 interchange and existing right-of-ways being designated as an integral part of the project, would make the most sense. This would accommodate traffic from one side of the tracks to the other and facilitate regional traffic. He stressed the need to coordinate

not just what is going on immediately within city limits, but also what is going on around us so that roads are continuous and make sense for the greater community. He commented that it seems like the configuration (blue #2) makes the most sense.<sup>2</sup>

Planning Manager Holland requested that Chair Leifer send him a PDF of his map. He said he agreed with the ideas presented by Chair Leifer, but added that an issue with this is that everything along the BNSF frontage roads is a dam, and it has created a wetland along that corridor. He indicated he would take this back to staff and get their input on this. Chair Leifer recommended dredging the creek to make it a good waterway for the fish and enhance it.

Commissioner Thetford asked if it is anticipated that that corridor would be the sewer line route. Planning Manager Holland replied that it is. Commissioner Thetford commented that if the City uses the appropriate backfill when they build the sewer line they would take out some of the bad soils and replace them with good ones. Planning Manager Holland stated that the City would likely be doing a temporary impact permit so they would restore it to native conditions. He agreed that it would be good to line up the road and the sewer, but the timing is dependent on development.

Chair Leifer asked about wetland mitigation. Planning Manager Holland explained that the wetlands were easier to deal with, but the creek issue would be the biggest challenge. Chair Leifer asked about setbacks. Planning Manager Holland replied that it would be a 150-foot setback. Chair Leifer noted that this could create a nice separation from the railroad if they lift the creek and have a 150-foot setback. If that obstacle can be overcome this would be a good plan.

Commissioner Hoen stated that the new overpass at 156<sup>th</sup> was intended to reduce traffic in the Lakewood area, but this proposal eliminates that benefit. You can't get to that shopping center without going to the 172<sup>nd</sup> exit and back over again. Chair Leifer clarified that if you wanted to get off the freeway and go to the shopping center at 156<sup>th</sup>, under this proposal you would hit the loop road which would go across and eventually right into the south end of the shopping center.

Planning Manager Holland indicated he would bring Public Works back to an upcoming meeting for more discussion on this.

Commissioner Andes requested that staff add the on and off ramps at 156<sup>th</sup> to the map staff prepared. He expressed concern about how Twin Lakes Blvd. would be affected. Planning Manager Holland stated that he believed the intent is to keep Twin Lakes Blvd. open.

Chair Leifer asked if they are getting closer to timeline of construction for the 156<sup>th</sup> Street and I-5 interchange. Planning Manager Holland replied not that he was aware of, but said he could have Public Works staff respond to that next time.

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<sup>2</sup> Commissioner Richards left at 8:20 p.m. due to family obligations.



Commissioner Hoen referred to the new development at 116<sup>th</sup>. He recalled that the Commission had asked why they couldn't extend the drop lane on 116<sup>th</sup> eastbound when it gets to State Avenue and the answer they got was that it was tribal land. He stated that it goes to the end of the new construction that is going on. It doesn't look to him like the tribal land is anywhere between the end of the turn lane and the new construction. Planning Manager Holland reviewed this area on the map and indicated they would need additional right-of-way from the tribes to extend the lane. Commissioner Hoen stated that if the lane could be extended it could clear a lot of traffic.

Planning Manager Holland stated that there would be a public hearing at the next meeting for the proposed LID code amendments.

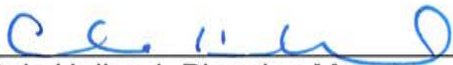
## CITY COUNCIL AGENDA ITEMS AND MINUTES

### ADJOURNMENT

**Motion** made by Commissioner Smith, seconded by Commissioner Thetford, to adjourn the meeting at 8:51 p.m. **Motion** passed unanimously.

### NEXT MEETING:

September 27, 2016



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Chris Holland, Planning Manager, for  
Laurie Hugdahl, Recording Secretary

# PLANNING COMMISSION



# MINUTES

September 27, 2016

7:00 p.m.

City Hall

## CALL TO ORDER

Chair Leifer called the September 27, 2016 meeting to order at 7:00 p.m. noting the presence of one person in the audience plus others as noted below:

### Marysville

**Chairman:** Steve Leifer

**Commissioners:** Roger Hoen, Jerry Andes, Kay Smith, Kelly Richards, Brandon Whitaker

**Staff:** Planning Manager Chris Holland, Community Development Director David Koenig, NPDES Coordinator Brooke Ensor, City Engineer Jeff Laycock

**Absent:** Tom Thetford (excused)

## APPROVAL OF MINUTES

### September 13, 2016

Chair Leifer had the following corrections:

- Page 3, 2<sup>nd</sup> full paragraph, second paragraph: add "the" before "mound" in the first sentence.
- Page 4, 1<sup>st</sup> full paragraph, last sentence: RUTA should be Rural Urban **Transition** Area.

He also commented that on page 4, in the second to last paragraph, the last sentence was vague and didn't capture all his comments. He stated that he would be reiterating his comments tonight.

**Motion** made by Commissioner Richards, seconded by Commissioner Smith, to approve the September 13, 2016 Meeting Minutes as corrected. **Motion** passed unanimously (6-0).

## AUDIENCE PARTICIPATION

### PUBLIC HEARING

#### Low Impact Development (LID) – Code Amendments

NPDES Coordinator Brooke Ensor noted that she prepared a memo on groundwater separation and groundwater mounding in response to Chair Leifer's questions at the last meeting. She explained that Ecology had clarified what kind of analysis they were expecting. They told staff that they want the groundwater mounding to be analyzed and to make sure that it's not impacting the drawdown time or the infiltration time on facilities. This is the policy that staff will be maintaining. The requirements of separation of groundwater and the bottom of the facility haven't changed substantially in the new version of the Stormwater Manual. In most situations there is actually more flexibility to allow that separation to be only one foot which is in keeping with what the city policy has been. She stated she also created a Ground Water Quick Reference Guide to help with the information.

Chair Leifer referred to Ecology's position that no mounding can go above the bottom of the reservoir. He asked if this is the interpretation the City will be using as well. Ms. Ensor replied it would be the bottom of the facility. She noted it is still the call of hydrogeologist who is running the study to determine whether the measure of safety is reasonable and within the limits of the drawdown time. Chair Leifer referred to the Manufacturing Industrial Center that is under-laden with soils and a high seasonal water table. If interpretations change what can be done there by six inches or a foot it will set off a chain reaction that is going to require a lot more money to be spent for those that would come to the city to build facilities and create jobs. He thinks there is a mix-up in the interpretation. He referred to the WWHM (Western Washington Hydrology Model) which assumes that there is going to be mounding around and adjacent to reservoirs onto the side wall of those trenches. However, if you take the position that no mounding can take place above the bottom of the reservoir, they are exclusive of one another. One of those situations has to be modified. He thinks they should try to interpret it so that a mound can come up around the adjacent levels of the pond so long as it doesn't overtop the pond and the reservoir fill is brought up to the level where you're not going to get the overtopping. He stressed that this is very important to everybody in this community that is hoping for family wage jobs to come here.

Ms. Ensor agreed. She stated that there is some room for flexibility. She noted it depends on the facility type. For a pond or bio swale there are allowances in the Manual. The excess water would just need to be accounted for in the facility. For something like permeable pavement any water coming up would flood the whole facility. Since it depends on what you're designing, the City relies on engineers, hydrogeologists and geologist to run the models. She explained that the comment period for this round of the Manual is closed, but any issues can be incorporated in the next draft. She spoke to the importance of following what the Manual says to protect against things being perpetually flooded.

Chair Leifer commented that you have to prove that you can't infiltrate or do Low Impact Development before you can go back to conventional. He commented on the high expense of proving this. He asked if the City has any discretion to say something like, "If you can't infiltrate at least 50% (or some other number), you can do conventional." Ms. Ensor replied there is some discretion at the city level and the design level. Smaller projects trigger a list of 5 minimum requirements. Bigger projects will trigger a list of 9 minimum Low Impact Best Management Practices which they are required to do if feasible. You go through the list until you find one that is feasible. The designer can either choose to go through the list or do Ecology's Low Impact Development modeling criteria. This allows some flexibility to mix and match approaches. Planning Manager Holland summarized that any subdivision would be required to go through 1 through 9. An existing lot in the city that would like to construct a single-family residence would not. Chair Leifer thanked Ms. Ensor for her work.

Planning Manager Holland then reviewed the minor proposed code amendments in Title 22 included in Exhibit A. These include amendments to "P" definitions, amendments to the Landscaping – Amendment referencing the soils identified in the Stormwater Management Manual, and amendments to the Development Standards related to the parking code to amend requirements related to curbs as a result of LID and allowing pervious pavement for pedestrian access and circulation areas.

Chair Leifer asked if the soil amendments were more restrictive or less restrictive. Ms. Ensor replied that the Stormwater Manual has three or four different ways to meet the requirements. It could be as simple as stockpiling soil onsite and reutilizing it once you're done. Planning Manager Holland commented that this is what is generally seen on projects anyway.

Planning Manager Holland then explained the proposal to eliminate the density bonus for Low Impact Development was excluded so it is still allowed. He commented that no one has taken advantage of anything in Chapter 22C.260 since it was introduced in 2008, so the recommendation is to repeal this section of the code and transfer the relevant sections to Chapter 14.15.

The hearing was opened at 7:28 p.m. and solicited public testimony. There was none. The hearing was closed at 7:29 p.m.

**Motion** made by Commissioner Richards, seconded by Commissioner Smith, to forward the Low Impact Code Amendments on to Council with a recommendation for approval. **Motion** passed unanimously (6-0).

The Commission thanked Ms. Ensor for her hard work and for providing relevant information.

## OLD BUSINESS

### Lakewood Master Plan – Future Road Connections (PowerPoint)

Planning Manager Holland referred to two letters that had been received regarding road connections. One was from Bailey, Duskin & Peiffle, and one was from Cole & Gilday. He then reviewed the PowerPoint presentation regarding the Lakewood Neighborhood Master Plan proposed road alignments and staff's recommended road alignment. Staff agrees that running the road and sewer up along the railway would be a better fit than providing sewer outside of that. He explained that there are some challenges with critical areas. For the area they are referring to the creek will not be a factor, but there would be permanent impacts to critical areas which would come at an added cost for mitigation as well as extra time. He also discussed what will happen to Twin Lakes Avenue when the single-point urban interchange (SPUI) gets constructed. He explained that at this time it looks like the SPUI will impact that corridor so that Twin Lakes Avenue would likely dead-end in some way. This has not been finalized yet though.

He reviewed staff's recommended road alignment which is proposing to come along Twin Lakes Avenue at some time in the future and then tying down at 136<sup>th</sup> at the signal. It would utilize an east-west roadway from future development, go through property over to 19<sup>th</sup>, and then go north and south. It is proposing a 156<sup>th</sup> Street overcrossing and tying out to the 45 Road. Lastly, it is showing a future road connection along the railroad and tying in around 161<sup>st</sup>. Staff is still proposing a direct line along 23<sup>rd</sup> to maintain connectivity. This provides a great network for the future which staff believes it is desirable.

Commissioner Andes expressed concern about the road alignment of 169<sup>th</sup>. Instead of being in the middle of the property and cutting off 100 feet of property, he asked about changing the road to curve up and go along the property line between the parcels. City Engineer Laycock replied it was possible, but it might leave a very unusable portion of the property. If they go straight through there is a potential to have some developable area with the remaining property. He commented that they try to avoid curving roads as much as possible. There was discussion about options for the road alignment in that area. Planning Manager Holland stressed that these are all just lines on a map and subject to change when development actually occurs.

Commissioner Hoen referred to 169<sup>th</sup> going straight across and noted that in the aerial photograph there appears to be something dividing the property already. Planning Manager Holland reiterated that it would be developer-driven.

Chair Leifer asked if there is any prioritization to the roads in staff's recommendation. He referred to his proposed alignment with items numbered 1-4 and asked if number 4 would be a priority. Planning Manager Holland stated that it wouldn't be an immediate priority, but they want to show it so it is available for 40-50 years from now. The information they have gathered so far shows that it's not doing any real benefit at this time. As we get closer to the funding and construction of the SPUI at 156<sup>th</sup>, the City will be aggressively trying to seek funds to get crossing over the railroad as well. Director

Koenig added that item 4 would be harder to implement because of tribal ownership of the land.

Commissioner Richards asked about a timeframe when we might get the SPUI access to the freeway. Mr. Laycock replied that it looks like it will be around 2030.

Chair Leifer referred to the triangle area and asked about prioritization in constructing the roads. Planning Manager Holland replied that the City would be asking for dedication at a minimum, but they would have to look at specific impacts of each development as it occurs.

Commissioner Richards pointed out that it would behoove Sathers to do the line that they want to get rid of because of critical areas right by the railroad tracks. If the City gets rid of the road so they wouldn't have to mess with it, it may create a different problem for them trying to mitigate that sensitive area.

Chair Leifer commented that he has had discussions with all of the property owners from 172<sup>nd</sup> down to 156<sup>th</sup> and they want to see the right-of-way down the railroad as a priority corridor and also wanted to make it a multi-use corridor so there was not any more property used up than necessary. This is why he was suggesting prioritization. Planning Manager Holland replied there are no roads in the city with any particular prioritization. They are development-based.

Commissioner Whitaker asked about the width of the roads when they are improved or constructed. Planning Manager Holland replied that these would either have a 60 or 75-foot right-of-way. 75-foot ROW would be for allowance of LID stormwater treatment within the ROW. They would be most likely looking at two 11-foot travel lanes with a center turn lane and a multi-use trail on one side.

Chair Leifer asked what would happen if the owners up there wanted to do a development. Planning Manager Holland stated they would review it as any other development applications and see what the impacts are and what the connectivity is.

Commissioner Kelly Richards left the meeting at 8:20 p.m.

Commissioner Andes referred to the street adjacent to the mobile home park and noted that the majority of the east half won't be usable. He commented that this is a large expense for something that won't be used. He thinks it would make more sense to have it in a different location. Planning Manager Holland pointed out that the majority of the roads between 156<sup>th</sup> and 172<sup>nd</sup> are included in the traffic impact fee calculation, therefore, a credit would be given in order to off-set costs of dedication and construction.

Planning Manager Holland stated that staff is hoping to finalize the recommendation and hold workshop on October 25 and a public hearing on November 8. He pointed out that some of the graphics will likely need to be updated prior to the public hearing, but probably won't be updated for the workshop.

Commissioner Smith noted she would be absent at the next meeting.

Chair Leifer expressed appreciation to staff for including his recommendations. He commended their work. He stated that they are basically in agreement on the whole thing except for the extra right-of-way on the east side of the Sather and Sayani properties. He would have one westerly right-of-way and not burden them with that additional property forfeiture. Aside from that, he appreciates the configurations that staff has proposed. Commissioner Andes concurred.

## **CITY COUNCIL AGENDA ITEMS AND MINUTES**

### **ADJOURNMENT**

**Motion** made by Commissioner Smith, seconded by Commissioner Hoen, to adjourn the meeting at 8:32 p.m. **Motion** passed unanimously.

### **NEXT MEETING:**

October 11, 2016

 for  
\_\_\_\_\_  
Laurie Hugdahl, Recording Secretary

# PLANNING COMMISSION



# MINUTES

October 25, 2016

7:00 p.m.

City Hall

## CALL TO ORDER

Chair Leifer called the October 25, 2016 meeting to order at 7:00 p.m. noting the excused absence of Commissioners Andes and Thetford. He noted that Commissioner Richards had informed them he would be arriving late.

## Roll Call

**Chairman:** Steve Leifer

**Commissioners:** Roger Hoen, Kay Smith, Brandon Whitaker, Kelly Richards<sup>1</sup>

**Staff:** Planning Manager Chris Holland, Community Development Director Dave Koenig

**Absent:** Jerry Andes, Tom Thetford

## APPROVAL OF MINUTES

October 11, 2016

**Motion** made by Commissioner Hoen, seconded by Commissioner Whitaker, to approve the October 11 Meeting Minutes.

Chair Leifer referred to page 3, the first full paragraph, and noted that the second *Lake Stevens* in the first sentence should be corrected to **Lakewood**.

**Motion** passed unanimously (4-0) to approve the minutes as corrected.

## AUDIENCE PARTICIPATION

None

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<sup>1</sup> Commissioner Richards arrived at 7:15 p.m. and left at 8:20 p.m. due to family obligations.



## PUBLIC HEARING

### WSDOT ROW Annexation –Pre-Zone

Chair Leifer opened the hearing at 7:03 p.m. and noted there was no one in the audience. Planning Manager Holland commented that they had received no comments on this item. He stated that staff was seeking a recommendation of approval for the Council.

Commissioner Hoen asked if there were any residences involved in this. Planning Manager Holland replied that there were not.

Public Comment – None

**Motion** made by Commissioner Hoen, seconded by Commissioner Whitaker, to forward this to the City Council with a recommendation for approval. **Motion** passed unanimously (4-0).

The public hearing was closed at 7:06 p.m.

## OLD BUSINESS

### Lakewood Neighborhood Master Plan

Planning Manager Holland commented that the City received a letter today from Bailey, Duskin, and Peiffle regarding the estate of Margaret Hanson. He stated that there are some misconceptions in the comments and noted he has not had a chance to speak to these people yet. There is no overlay within the plan. It just talks about how the areas could function based on proposed developments. Any mixed use zone within the Lakewood area has the same rules and requirements for development as anything along 172<sup>nd</sup> including the Hanson estate. The City is not applying any additional regulations to this property. Any project action would be subject to the Design Guidelines based on the type of use. He clarified that there is nothing in the plan that is more stringent on the Hanson property than any other mixed use parcel in the area. He stated he would be following up with a letter to representatives of this estate explaining that.

Chair Leifer asked how the “Lakewood Community Overlay” verbiage in the Plan might have played into this misunderstanding. Planning Manager Holland explained it just highlights the assets of the area and identifies what *could* happen in the area, not necessarily what *will* happen. Chair Leifer asked if there is any intent to somehow make that area different than the rest of the areas zoned mixed use in the zone from I-5 to 19<sup>th</sup>. Planning Manager Holland replied there is not. He stated that he thinks a simple conversation with the estate will clear up this matter.

Chair Leifer asked about the other letter. Planning Manager Holland stated there was a pre-application today for the Sayani property. As part of the pre-application review, staff

met with them regarding future road alignments. Based on that, they wanted to submit something via email quickly for the Planning Commission's consideration about financing those road improvements. They are not contesting the connectivity; they are just concerned about the cost and would rather participate in some kind of an LID. They also had concerns about the sewer. Planning Manager Holland said he encouraged them to meet with their neighbors to discuss this so they might be able to come to an agreement about how to finance these improvements. He explained to them that the Plan itself is not a financing document. He also informed them that amendments to the Transportation Element will be made to include the arterials within the Lakewood Neighborhood to be on the traffic impact fee calculation. This could result in the possibility of land dedication for right of way that can be credited against traffic impact fees.

Chair Leifer recommended staff talking with the owners of the Hanson property before the Planning Commission takes any action. He commented that the letter regarding the Sayani property had also been received and noted.

Chair Leifer asked if the Level of Service in that area could be problematic for some of the development they are trying to improve the roads for. Planning Manager Holland explained that right now it isn't, but that could change as future development occurs. The acceptable Level of Service of 172<sup>nd</sup> is Level of Service D. Chair Leifer asked how this might impact development in that area. Planning Manager Holland replied that would be up to the traffic engineers to determine. If a development would impact any intersections to a Level of Service that's unacceptable then they need to propose improvements to bring it up to an acceptable Level of Service. Community Development Director Koenig explained that the City could also look at the interchange in anticipation of it being built and factor that into a conditional approval.

Planning Manager Holland presented the Draft Design Guidelines and solicited comments from the Planning Commission. He explained this expands on what is currently in place for the City. The overlay area encourages adaptive reuse of existing building over time to maintain a rural crossroad character. It requires buildings orient to the human-scale local streets. It provides for Pedestrian-Oriented Public Areas Designations, including commercial areas and streets, trails and parks. It requires high-quality common open space for new multi-family development. It requires comfortable pedestrian routes that connect to a Lakewood-wide "active transportation" network.

Commissioner Richards asked if this could open things up for more crime. Planning Manager Holland noted that could be, but more eyes in an area also acts as a deterrent. This also allows police to drive by and be able to see what is going on.

He continued to explain that the guidelines would require commercial buildings to provide a well-defined streetscape; pedestrian oriented facades; weather protection over building entries; pedestrian sidewalks required between parking lots and storefronts; smaller builder elements near the entries of large buildings in order to maintain a human scale; façade modulation and articulation; and detail elements. It

would build on the existing character and would require an active ground floor on specific street sections.

Chair Leifer commented these seem like a regurgitation of what was developed for downtown. Planning Manager Holland agreed that the design regulations expand upon the East Sunnyside-Whiskey Ridge, and Downtown Design Guidelines.

Chair Leifer referred to the letter regarding the estate of Margaret Hanson where they expressed concern about the guidelines being modified at the discretion of the Community Development Director. He asked what the likelihood is of that happening. Planning Manager Holland explained that they would all be reviewed administratively, and no one wants it to go to a design review board.

Director Koenig explained that the discretion of the Community Development Director allows for some flexibility to modify and try different things when it makes more sense. Chair Leifer referred to the letter from Sayani and asked if they would be required to stub sewers through their property so they can be continued on to the north. Director Koenig replied they would look at that and see where the sewer should be and what would be needed for that development. If there are increased costs, such as increased sewer size or water size, those would be credited to their fees.

Planning Manager Holland reviewed the Draft Vehicular Network Map for the Lakewood Neighborhood Master Plan. He noted that these are all concepts, and it really will depend on the development that happens. He also reviewed the Land Technologies Road Connection Proposal, the Leifer Road Connection Proposal, and the Andes Road Connection Proposals

Chair Leifer referred to the Lakewood "Triangle" and noted it allows for sort of a beltway concept with the opportunity to make some lateral connections. He agrees with the idea that all the traffic will be hitting the roundabout at 19<sup>th</sup> and come down the right-of-way along the railroad if they're not going to the shopping center. He also thinks that the people coming south on 23<sup>rd</sup> are going to get off on 19<sup>th</sup> and head down the railroad if they want to get on the freeway or go to over the overpass. Planning Manager Holland replied that the residential people would not be likely to go west to go south. They would just head south. These residential people would mainly be coming from the Wakefield and Vintage complexes. Chair Leifer discussed how he sees potential traffic patterns of drivers and commented that he feels 23<sup>rd</sup> Avenue would be redundant. He also stated that the confluence of the railroad right-of-way arterial and 23<sup>rd</sup> down by the lower end of the property by the mobile home park would create kind of a choke point. He asked if staff has taken a closer look at how that would be resolved. Planning Manager Holland replied that it is likely to be a roundabout at that location.

Chair Leifer summarized that he would be supportive of this road plan if there was a designation on the section south of 169<sup>th</sup> on 23<sup>rd</sup> to allow access to the property owners there on the basis of a collector arterial based on what he thinks will actually happen with that section of road. He agrees that Wakefield and that development will use it, but doesn't think that is a big number of trips in a day relative to what an arterial can carry.

Planning Manager Holland referred to section 4.1.3 which states that specific alignments have not been identified for the planned collector roads. Alignments will be defined as part of future corridor studies or as adjacent properties are developed. Some of the other planned collector roads also may be classified as arterials in the future depending on specific design and access requirements at the time the corridor is developed. Chair Leifer commented that this would allow for the concept of local access. Planning Manager Holland agreed. Planning Manager Holland commented that this is the kind of language he would like to put in the plan. Chair Leifer commented that he thinks the arterial going down the railroad would probably be a minor or a primary arterial. Planning Manager Holland thought it could carry quite a bit of traffic, but it definitely needs to be looked at.

Chair Leifer commented that when you're going north on 30<sup>th</sup> Avenue NE with a truck and trailer, it's impossible to get around the corner without going into the other lane. This is the reason he proposed his initial plan to connect there in order to provide a greater width.

There was consensus to hold a hearing for the Capital Facilities Plans for the school districts on November 9.

## **CITY COUNCIL AGENDA ITEMS AND MINUTES**

### **ADJOURNMENT**

**Motion** made by Commissioner Smith, seconded by Commissioner Whitaker, to adjourn the meeting at 8:31 p.m. **Motion** passed unanimously.

**NEXT MEETING** – November 9



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Chris Holland, Planning Manager for  
Laurie Hugdahl, Recording Secretary

# PLANNING COMMISSION



# MINUTES

**December 13, 2016**

**7:00 p.m.**

**City Hall**

## **CALL TO ORDER**

Chair Leifer called the December 13, 2016 meeting to order at 7:00 p.m. noting the presence of several people in the audience.

### Marysville

**Chairman:** Steve Leifer

**Commissioners:** Roger Hoen, Jerry Andes, Kay Smith, Brandon Whitaker

**Staff:** Planning Manager Chris Holland, Community Development Director Dave Koenig, Senior Planner Angela Gemmer

**Absent:** Kelly Richards and Tom Thetford (both excused)

## **APPROVAL OF MINUTES**

### November 22, 2016

**Motion** made by Commissioner Smith, seconded by Commissioner Whitaker, to approve the November 22, 2016 Meeting Minutes as presented. **Motion** passed unanimously (5-0)

## **AUDIENCE PARTICIPATION**

None

## **PUBLIC HEARINGS**

### MMC Chapter 11.52 Commute Trip Reduction Update

Senior Planner Gemmer gave background on this item and reviewed the proposed changes as discussed at the last meeting.

The public hearing was opened at 7:07 p.m. Seeing no public comments, the hearing was closed at 7:07 p.m.

**Motion** made by Commissioner Hoen, seconded by Commissioner Smith, to recommend this for approval to the City Council. **Motion** passed unanimously (5-0).

### Lakewood Neighborhood Master Plan

Planning Manager Chris Holland reviewed the redlined version of the Lakewood Neighborhood Master Plan, Appendix A (Design Standards) and Appendix B (Decorative Street Lighting).

Planning Manager Holland also noted that all written public comments to date were included in the Planning Commission's packet. Staff received another email today, which was distributed to the Planning Commission. That letter was based on a previous letter regarding the Margaret Hanson estate. Regarding that matter, Planning Manager Holland noted that there would not be any additional design or use requirements for Ms. Hanson's property that would not be a requirement for all other properties with similar zoning designation. If approved as proposed, each zone within the master plan area would be subject to the Appendix A Design Standards. Commissioner Hoen asked if staff ever met with the representatives of the Margaret Hanson estate. Planning Manager Holland stated he had tried to make contact once, but was not successful.

Planning Manager Holland explained that the purpose of the plan was to plan for development for the next 20 years focusing on transportation, utilities and design standards. Some of the assets include the civic center, Twin Lakes Park, existing rural crossroads character, scenic views, major shopping center, and access to other areas in the region. The 20-year plan would accommodate another 4,200 jobs and about 5,600 more people in the area. There will be a tremendous amount of growth in Lakewood.

Senior Planner Holland reviewed the existing zoning. He discussed recommended traffic improvements at 172<sup>nd</sup> Street, the 156<sup>th</sup> Street NE Interchange, Neighborhood Roadway Network north of 172<sup>nd</sup> (174<sup>th</sup> Street NE; 176<sup>th</sup> Street NE; 23<sup>rd</sup>/25<sup>th</sup> Avenue NE; and 19<sup>th</sup> Avenue NE) and south of 172<sup>nd</sup> Street (27<sup>th</sup> Avenue NE; 23<sup>rd</sup> Avenue NE; 19<sup>th</sup> Avenue NE/169<sup>th</sup> Street NE; 25<sup>th</sup>/27<sup>th</sup> Avenue NE; 156<sup>th</sup> Street NE and Interchange; 156<sup>th</sup> Street NE Multiuse Connection to Centennial Trail; Twin Lakes Avenue; 156<sup>th</sup> Street/Twin Lakes Avenue). He discussed the Land Use and Planned Collector Roads in the Transportation Element, the Draft Vehicular Network Map, the Land Technologies Road Connection Proposal, the Leifer Road Connection Proposal, the Andes Road Connection Proposal, and introduced Staff's Recommended Road Alignment as contained in the packet. Based on all the comments received from commissioners and the general public, staff has revised its recommendation. This includes elimination of the continuation of 30<sup>th</sup> down across the railroad, shifting that roadway to the east and allowing it as a sort of frontage road (Twin Lakes Frontage Road) which would connect down at 136<sup>th</sup>, and elimination of the previously recommended roadway along the

railroad. He noted that staff believes that the 23<sup>rd</sup>/27<sup>th</sup> Avenue Corridors would be the most important ones to move people.

Chair Leifer noted that there is a lot of verbiage contained in past minutes relating to the road connections and the fact that this is a conceptual plan but the details are yet to be finalized. He asked if this fact would be considered for development purposes. Planning Manager Holland replied that it would and noted that these are just recommended connections; the exact alignment would be determined as development occurs. Chair Leifer recommended including some verbiage reflecting that to the text. Planning Manager Holland indicated something like that could be incorporated if desired, but the following text is already included in the Engineering, Design and Development Standards (EDDS):

*“Specific alignments have not been identified for the planned connector roads. Alignments will be defined as part of the future corridor studies or as adjacent properties are developed. Some of the other planned connector roads also may be classified as arterials in the future depending on specific design and access requirements at the time the corridor is developed.”*

Chair Leifer indicated that it didn't need to be restated if it is already in the EDDS. Planning Manager Holland agreed and added that each one of the road connections within the City of Marysville's Urban Growth Area Boundary is also already in the TIF (Traffic Impact Fee) calculation.

Chair Leifer asked about the City's plan for the loop between 23<sup>rd</sup>, 169<sup>th</sup>, and over to 27<sup>th</sup>. Planning Manager Holland replied that the project is in the two-year budget that the Council just approved so it will be moving forward soon.

Commissioner Andes suggested adding a note on the map referring to the statement from the EDDS. Planning Manager Holland indicated staff could do that. Commissioner Andes then referred to the roundabout on 19<sup>th</sup> and commented that a train would stop all traffic. He wondered if there was a type of signal that could be included to assist traffic flow. Planning Manager Holland replied that staff will look into signal options for this.

Utilities – Water: Planning Manager Holland then explained that no major water improvements need to be made in the service area.

Utilities – Sewer: The main improvement that needs to occur is that the sewer line will need to be extended up to 172<sup>nd</sup> along the railroad. There is also a chokepoint near Twin Lakes Avenue that needs to be improved.

Chair Leifer asked if there is a preferred location for discharge for a proposed force main up in that region. Planning Manager Holland indicated he could look into it. Chair Leifer commented that the whole question about sewer is dependent upon what happens with the property that Sayani owns unless another route is found via a pump station. Planning Manager Holland commented that if the City had the ability and the

funds available to put it in and felt it was necessary to spur development, they could acquire the property and put it in. He noted that the issues can be identified when the property owners/developers are working with the Public Works Department.

Utilities – Stormwater: The City adopted Ordinance No. 3035 which becomes effective December 31. This means all development is required to do infiltration or LID improvements as part of their stormwater unless it is proven unfeasible.

Planning Manager Holland explained that the Design Standards in Appendix A build upon existing Design Standards in the current code, but also expand on them to try to get a neighborhood that is pedestrian oriented. The Urban Design Standards require buildings oriented toward the street front. It would require Design Standards for commercial areas to provide pedestrian-oriented character. It would build on the existing character of the area and provide for active ground floors along street segments. Planning Manager Holland summarized the general text amendments as shown by the red lines in the Draft Plan.

Commissioner Hoen asked what the Arlington Municipal Airport Sub Districts C and D are. Planning Manager Holland replied that these relate to requirements for certain areas that align with the proximity to the airport.

Commissioner Whitaker referred to the Design Standards as they relate to lighting and asked if they would be using LED lights. Planning Manager Holland replied that they are seeing a lot more LED. Commissioner Whitaker recommended making sure that if LED lights are used, full cut-off fixtures are required in order to avoid fugitive light going everywhere.

Commissioner Andes asked if the Shaw property will be required to do anything with 19<sup>th</sup>. Planning Manager Holland replied it has been discussed as part of the application process, but hasn't been finalized yet.

The public testimony portion of the public hearing was opened at 8:11 p.m.

Public Testimony:

Sandy Howard, 16704 25<sup>th</sup> Avenue NE, Marysville (2310 – 172<sup>nd</sup> Street), stated that she has lived at this address since 1974. Her husband passed away six years ago and she is working on trying to sell the property. She was disappointed to see a road going through her property which will impact the value tremendously. She recommended that the road avoid her property if at all possible. She urged the Commission to consider the impacts to private property owners.

Merle Ash, 18820 3rd Avenue NE, Arlington, WA, spoke as a citizen and a land use consultant representing Sandy Howard and the Grove Church. He commented that he is generally pretty excited about this plan, but he thinks there needs to be a couple tweaks including Sandy Howard's property. He expressed concern about the 169<sup>th</sup> extension. 169<sup>th</sup> aligns with the south half of the Howard property. A 70-foot corridor



through the property would put a huge burden on the property as it would leave a 70-foot strip remaining south of that which would be basically unusable. He requested that the roads actually get built. He encouraged the City to recognize some of the private property owners' concerns that are along this route. He stated that they will be submitting a pre-application for a road alignment in a townhouse development on that property which will propose S-curves turning to the south of the property line. They feel this would be a good compromise and might actually encourage a developer to purchase the property.

Chair Leifer asked Mr. Ash how the proposed S-curves would relate to the speed limits in the area. Mr. Ash replied that the design and the radius they are proposing would accommodate proposed speed limits. He doesn't think it would be an impact to the flow of traffic. Chair Leifer asked what the speed limit for that area would be. Planning Manager Holland replied it would be 25-30 mph.

Chair Leifer then asked what the recommended road configuration for the 23<sup>rd</sup> extension to the south would be. Mr. Ash replied that they would have liked to see something developed off of 19<sup>th</sup> and down the side of the railroad tracks. As part of their pre-application they will be talking to the City about this issue where her 5-acre property potentially being reduced to a 3.17 acre piece of property as a result of the proposed road alignment.

He summarized that staff did an outstanding job on this Plan.

Seeing no further public comments, the public testimony portion of the public hearing was closed at 8:30 p.m.

Chair Leifer referred to the loop road and the alignment and asked if it would be appropriate for the Planning Commission to give an opinion of where the alignment should be due to the City's plans to construct a road and the eminent development in the area. He spoke in support of preserving individual property rights.

Commissioner Andes discussed some curved roads he had done in his career and commented on how the S-curves might work with the roundabout. He thought that this particular situation would be a good test for the City to demonstrate how it will work with the property owners and developers as stated in the EDDS.

Chair Leifer spoke in support of a statement that the road alignment be held along the south property line of the Howard property with an S-curve to bring it back into the easterly portion and then continue on that route all the way towards the railroad until it curves up 19<sup>th</sup>. He commented that that seems to make a lot of sense for everybody.

Planning Manager Holland noted that could be included as an emphasis from the Planning Commission if that is the consensus. He stated that the City is willing to entertain that road alignment, but it comes down to when development occurs and if it can meet Engineering Design and Development Standards. There appeared to be consensus to support the verbiage indicated by Chair Leifer.

**Motion** made by Commissioner Andes, seconded by Commissioner Smith, to recommend approval of the Plan as presented with direction to facilitate the alignment of 169th as far south as possible, as approved by the City Engineer, in accordance with the EDDS in order to have the least impact possible on the Howard property. **Motion** passed unanimously (5-0).

Commissioner Hoen asked how the compensation to the property owners for right-of-ways is typically figured out. Planning Manager Holland explained that it is something worked out based on fair market value of the land and the cost of improvements. The right-of-way dedicated would be credited toward their traffic impact fees as well as the cost of improving that right-of-way to a public standard.

## **CITY COUNCIL AGENDA ITEMS AND MINUTES**

### **ADJOURNMENT**

**Motion** made by Commissioner Andes, seconded by Commissioner Smith, to adjourn the meeting at 8:51 p.m. **Motion** passed unanimously (5-0).

### **NEXT MEETING:**

January 10, 2017

  
Chris Holland, Planning Manager for,  
Laurie Hugdahl, Recording Secretary

## Chris Holland

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**From:** Chris Holland  
**Sent:** Monday, October 26, 2015 8:35 AM  
**To:** 'sounderbruce@gmail.com'  
**Subject:** Lakewood Master Plan

Bruce-

Thank you for taking the time to provide comments. We have been working very closely with Community Transit on new projects to ensure there is adequate bus stops and shelters. Great suggestion to get information regarding bus service in the Master Plan. I will work with CT on this.

Thanks again,

**Chris Holland** | Planning Manager

**CITY OF MARYSVILLE**  
 Community Development Department  
 80 Columbia Avenue  
 Marysville, WA 98270

360-363-8100 Office  
 360-363-8207 Direct Line  
 360-651-5099 Fax

[cholland@marysvillewa.gov](mailto:cholland@marysvillewa.gov)  
<http://marysvillewa.gov>

### Lakewood Master Plan - comment card

Lakewood neighborhood meeting

*Please share your thoughts with us about our Lakewood neighborhood meeting.*

Name	Bruce Englehardt
Phone number or email	<a href="mailto:sounderbruce@gmail.com">sounderbruce@gmail.com</a>
Address	17511 27th Avenue NE
Address	<i>Field not completed.</i>
City	Marysville
State	WA
Zip	98271

(Section Break)

What is your interest in the project?	I live in the area
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Other (please specify)	<i>Field not completed.</i>
What are you most interested in?	Transportation, Walking/cycling, Open space development, Development density
Other (please specify)	<i>Field not completed.</i>
Do you have any concerns regarding existing land use (zoning)?	No
Additional zoning concerns	<i>Field not completed.</i>
Additional comments	The plan looks good overall (especially the expansion of the ped/bike network that is very incomplete here), but it lacks any mention of transit, specifically Community Transit route 240, which could have hourly frequency if the upcoming ballot measure next month passes. Bus pullouts and bulbs, relocation of stops, affects of the roundabout on stop location, etc. are all key issues that need to be addressed.
<p>Need additional information or have questions?  <i>For transportation/infrastructure, contact Jeff Laycock: 360-363-8274 or <a href="mailto:jlaycock@marysvillewa.gov">jlaycock@marysvillewa.gov</a>. For planning/development, contact Chris Holland: 360-363-8207 or <a href="mailto:cholland@marysvillewa.gov">cholland@marysvillewa.gov</a></i></p>	

Email not displaying correctly? [View it in your browser.](#)

**From:** [noreply@civicplus.com](mailto:noreply@civicplus.com)  
**To:** [Chris Holland](#); [Jeff Laycock](#)  
**Subject:** Online Form Submittal: Lakewood Master Plan - comment card  
**Date:** Tuesday, October 27, 2015 9:20:24 AM

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## Lakewood Master Plan - comment card

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Lakewood neighborhood meeting  
*Please share your thoughts with us about our Lakewood neighborhood meeting.*

Name	Phyllis McKenzie
Phone number or email	phyllis@trevsglass.com
Address	PO box 214
Address	<i>Field not completed.</i>
City	N Lakewood
State	WA
Zip	98259

(Section Break)

What is your interest in the project?	I live in the area, I work in the area, I own a business in the area
Other (please specify)	<i>Field not completed.</i>
What are you most interested in?	Business opportunities
Other (please specify)	Proper design

Do you have any concerns regarding existing land use (zoning)?

Yes (please explain)

Additional zoning concerns

When we asked for business up to the RR tracks and Gloria insisted on Mixed use Look at the mess we got

Additional comments

Absolutely need to remove the plan of the round about at 19th As it is now the train will back up traffic around the other roundabout By not having commercial on both sides of 172nd the City is loosing revenue and making it inconvenient for the shoppers to shop. Walking trails are important but not so important as to cause business loss and vandalism Would be nice oif you had these meetings on a night that wasn't a church night

Need additional information or have questions?

*For transportation/infrastructure, contact Jeff Laycock: 360-363-8274 or [jlaycock@marysvillewa.gov](mailto:jlaycock@marysvillewa.gov). For planning/development, contact Chris Holland: 360-363-8207 or [cholland@marysvillewa.gov](mailto:cholland@marysvillewa.gov)*

Email not displaying correctly? [View it in your browser.](#)

## Chris Holland

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**From:** Mayrhofer, Maria <MayrhoM@wsdot.wa.gov>  
**Sent:** Thursday, February 04, 2016 8:45 AM  
**To:** Chris Holland  
**Cc:** Prestrud, Charles; Swires, Mike; Cheryl Dungan; Jeff Laycock; David Koenig  
**Subject:** FW: Marysville Lakewood Master Plan - SR 531 Improvements  
**Attachments:** Ltr WSDOT re SR 531 Roadway Section.pdf; MarysvilleLNMP\_NbhdMtg\_172ndStPoster.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Chris,

Please find below WSDOT NWR Traffic comments about the proposed improvements as outlined in the attached documents and the Lakewood Neighborhood TIP, 2015. Please let us know if there is anything else we can assist with in regard of this matter.

Sincerely,

*Maria Mayrhofer*

SnoKing Transportation Planner,  
 NWR WSDOT  
 15700 Dayton Ave North, NB82-116  
 PO Box 330310, Seattle, WA 98133-9710

Phone: (206) 440-4526  
[mayrhoM@wsdot.wa.gov](mailto:mayrhoM@wsdot.wa.gov)

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**From:** Swires, Mike  
**Sent:** Wednesday, February 03, 2016 7:28 PM  
**To:** Mayrhofer, Maria  
**Cc:** Prestrud, Charles; Briggs, Barbara  
**Subject:** RE: Marysville Lakewood Master Plan - SR 531 Improvements

Hi Maria,

Sorry for the delay in getting a response back to you.

In general, we concur with the city's proposed roadway section and plans for 531 between 11<sup>th</sup> Ave NE and 27<sup>th</sup> Ave NE.

As mentioned in the city's letter, the Design Manual has recently been updated to reflect a practical design philosophy. Lane widths can vary between 10'-12'; the 11' width preferred by the city appears acceptable and would need to be supported by documentation as part of any planned improvement to 531.

In addition to following DM guidelines, the city should also ensure that their design meets AASHTO guidelines. Also, we recommend that the city refer to National Association of City Transportation Officials (NACTO) Urban Bikeway Design Guide. This guide (and its companion, Urban Street Design Guide) has been adopted by WSDOT and provides additional guidance and recommendations on bicycle and pedestrian facilities alongside or adjacent to roadways.

Below are some additional comments on the proposed roadway section and improvements:

Roadway sections B-B, C-C, and D-D show an eastbound bike lane but no corresponding westbound lane. Rather than providing the EB single lane along 531, we recommend that the width be used to widen the shared use trails on either side of 531. This would bring both trails up to 12' and match what's shown on section A-A.

Roadway section B-B shows the EB bike lane adjacent to on-street parking. This creates a potential dooring conflict, with car doors opening unexpectedly in the path of bicyclists. The Urban Bikeway Design Guide provides recommendations on methods to avoid this; per the comment above, one solution would be to remove the bike lane and create wider trails on either side of 531.

We recommend that the proposed signal indicated at 16<sup>th</sup> Dr NE not be included at this time. Prior to installing a signal, an intersection control analysis would need to be provided (per DM guidance) in order to determine the appropriate intersection control. In lieu of a signal, we suggest the city consider restricting allowed movements at 16<sup>th</sup> Dr NE to right-in, right-out, and left-in. The proposed roundabouts at intersections east and west of 16<sup>th</sup> Dr NE would accommodate left turn movements (drivers would turn right onto 531, then u-turn through the downstream roundabout).

Please let me know if you have any questions or need anything else on this.

Thanks! – Mike



**Chris Holland**

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**From:** SounderBruce <sounderbruce@gmail.com>  
**Sent:** Sunday, May 15, 2016 9:13 PM  
**To:** Chris Holland  
**Subject:** Lakewood Neighborhood Master Plan Draft Comments

Regarding the released draft of the Lakewood Neighborhood Master Plan, I am concerned about the lack of mention of accommodations for a possible commuter rail station that could anchor the Lakewood urban center. While Marysville is not in the Sound Transit district, there is growing support for annexation to grant access to these kinds of services. I hope to see a final plan that includes at least one mention of setting aside easements for a future rail station with appropriate bus connections (either staying on-street or pulling off into a dedicated bus station).

As someone who regularly walks along 172nd Street, it's nice to see more sidewalks being forecasted, even if it won't be delivered for a long time. I am concerned about the separation of pedestrians and cyclists on the shared trail. I suggest clear markings that encourage separation that prevents accidents, as a sidewalk is not a suitable environment for higher-speed cyclists.

--

**Bruce Englehardt**  
17511 27th Avenue NE  
Marysville, WA 98271  
[sounderbruce@gmail.com](mailto:sounderbruce@gmail.com)

## Chris Holland

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**From:** Amy Rusko <arusko@arlingtonwa.gov>  
**Sent:** Monday, May 16, 2016 4:03 PM  
**To:** Chris Holland  
**Cc:** Marc Hayes; Christopher Young  
**Subject:** RE: Lakewood Neighborhood Master Plan Comments

Chris,

Thank you for the clarification on which intersection would be effected by the removal of left hand turn lanes. Whew! ☺ We did not see or review the exhibit that you provided below when we made our transportation comment in the review letter.

**Amy Rusko | Associate Planner**  
**360.403.3550 | [arusko@arlingtonwa.gov](mailto:arusko@arlingtonwa.gov)**  
**City of Arlington, Washington**



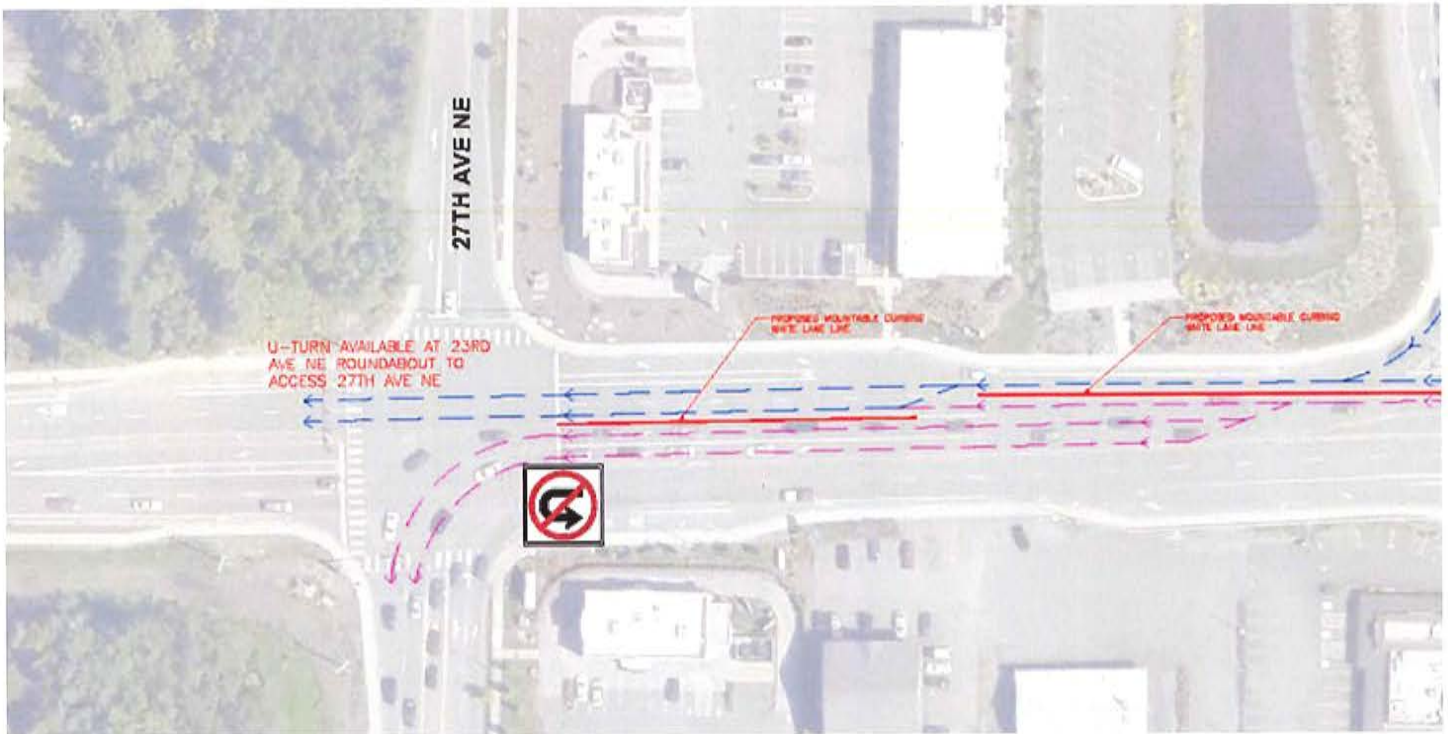
The Arlington / Darrington community has been selected as a finalist in the nationwide America's Best Communities competition. Read more [here](#), and like our [ABC Facebook page](#)

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**From:** Chris Holland [mailto:CHolland@marysvillewa.gov]  
**Sent:** Monday, May 16, 2016 3:42 PM  
**To:** Amy Rusko <arusko@arlingtonwa.gov>  
**Cc:** Marc Hayes <mhayes@arlingtonwa.gov>; Christopher Young <cyoung@arlingtonwa.gov>  
**Subject:** RE: Lakewood Neighborhood Master Plan Comments

Amy-

Thank you for providing comments related to the Lakewood Neighborhood Master Plan. I wanted to try and clarify the hard channelization statement on 172<sup>nd</sup> Street NE (SR 531). Currently, cars exiting I-5 and traveling west on 172<sup>nd</sup> Street NE and then south on 27<sup>th</sup> Avenue NE tend to block through (westbound) traffic. If cars exiting I-5 were restricted from heading south on 27<sup>th</sup> Avenue NE and were required to utilize the RAB, traffic operations at this intersection would greatly improve (see exhibit below). Additionally, removing the U-turn would provide a safer intersection, as this intersection has one of the highest accident rates in the City. Marysville is not proposing any restrictions to eastbound travel for folks exiting I-5. Obviously, WSDOT would need to approve any hard channelization on 172<sup>nd</sup> Street NE (SR 531).



The City will amend the plan identifying the fact that the Lakewood Neighborhood is located within the Arlington Airport's Subdistrict C and Subdistrict D zones.

Thank you,

**Chris Holland** | Planning Manager

**CITY OF MARYSVILLE**  
Community Development Department  
80 Columbia Avenue  
Marysville, WA 98270

360-363-8100 Office  
360-363-8207 Direct Line  
360-651-5099 Fax

[cholland@marysvillewa.gov](mailto:cholland@marysvillewa.gov)  
<http://marysvillewa.gov>

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**From:** Amy Rusko [<mailto:arusko@arlingtonwa.gov>]  
**Sent:** Monday, May 16, 2016 2:07 PM  
**To:** Chris Holland <[CHolland@marysvillewa.gov](mailto:CHolland@marysvillewa.gov)>  
**Cc:** Marc Hayes <[mhayes@arlingtonwa.gov](mailto:mhayes@arlingtonwa.gov)>; Christopher Young <[cyoung@arlingtonwa.gov](mailto:cyoung@arlingtonwa.gov)>  
**Subject:** Lakewood Neighborhood Master Plan Comments

Mr. Holland,

Thank you for allowing the City of Arlington to review the Lakewood Neighborhood Master Plan. I have attached the City of Arlington's comments. If you have any questions please let me know.

Sincerely,  
**Amy Rusko** | Associate Planner

360.403.3550 | [arusko@arlingtonwa.gov](mailto:arusko@arlingtonwa.gov)  
City of Arlington, Washington



The Arlington / Darrington community has been selected as a finalist in the nationwide America's Best Communities competition. Read more [here](#), and like our [ABC Facebook page](#)

# Community & Economic Development

PLANNING & LAND USE DIVISION



May 16, 2016

City of Marysville  
80 Columbia Avenue  
Marysville, WA 98270  
Attn: Chris Holland

**RE: Lakewood Neighborhood Master Plan**

Dear Mr. Holland:

The City of Arlington Community & Economic Development Department has reviewed the City of Marysville's Lakewood Neighborhood Master Plan. The City found the Plan nicely designed and well put together. The Plan should enhance the neighborhood and entryway into Lakewood. The City of Arlington found two items of concern during this initial review and may have further comments pertaining to the Plan prior to the final adoption.

## Transportation

1. On page 23 of the Lakewood Neighborhood Master Plan, it states; "Restrict traffic from I-5 southbound from turning left at 172<sup>nd</sup> Street NE, requiring traffic to either make a U-turn or left turn at the 23<sup>rd</sup> Avenue NE roundabout. This routing option requires completion of the 23<sup>rd</sup> Avenue NE roundabout and connection of 23<sup>rd</sup> Avenue NE to 169<sup>th</sup> Place to provide an alternate route to the Lakewood Crossing shopping area."

The City of Arlington does not approve of the proposed re-routing of the off ramp traffic from southbound I-5 to 23<sup>rd</sup> Avenue NE. This is an unreasonable requirement for persons trying to travel east from I-5.

## Airport

1. The Lakewood Neighborhood Master Plan falls within Arlington Municipal Airport's Subdistrict C and Subdistrict D zones (regulations can be found in AMC 20.38). The Airport staff would like this mentioned within the Master Plan. The Airport staff has requested review of all future development permits to ensure that the Airport receives either an Avigation Easement for properties located within Subdistrict C or a Non-Disclosure Statement for properties located within Subdistrict D.

Thank you for the opportunity to review the Lakewood Neighborhood Master Plan. If you have any questions please let me know. I can be reached at 360-403-3550 or [arusko@arlingtonwa.gov](mailto:arusko@arlingtonwa.gov).

Sincerely,

A handwritten signature in black ink that reads "Amy Rusko". The signature is written in a cursive, flowing style.

Amy Rusko  
Associate Planner

**Chris Holland**

---

**From:** Justin Pedersen <Justin@landtechway.com>  
**Sent:** Monday, May 16, 2016 4:36 PM  
**To:** Chris Holland; David Koenig; Angela Gemmer  
**Cc:** rloffer@grovech.org; Bradl@gibsontraffic.com; Merle Ash  
**Subject:** Lakewood Neighborhood Master Plan Comments  
**Attachments:** Circulation Display.pdf; Lakewood Neighborhood Master Plan half size map.pdf; LNMP Comments.pdf

Chris

I would like to offer the attached comments on the Draft Lakewood Neighborhood Master Plan. As we have discussed before our comments are centered around the north south corridor. We believe there are more viable and beneficial corridors that should be considered.

Other than our concern on this north-south corridor, we do believe this is a well-conceived plan and appreciate the great effort that has been put into it.

Thank you for the opportunity to present our comments.

Could you please let me know you received this email, the files attached are large and I have concerns it might not go through.

*Justin Pedersen*

**Land Technologies, Inc.**  
**18820 3<sup>rd</sup> Ave NE**  
**Arlington WA 98223**  
**360-652-9727**  
[justin@landtechway.com](mailto:justin@landtechway.com)

# LAND TECHNOLOGIES, INC.

PLANNING • PERMITTING • ENGINEERING



May 16, 2016

City of Marysville  
 Community Development  
 Att: Chris Holland  
 RE: Comments on Lakewood Neighborhood Master Plan

## City of Marysville Lakewood Neighborhood Master Plan

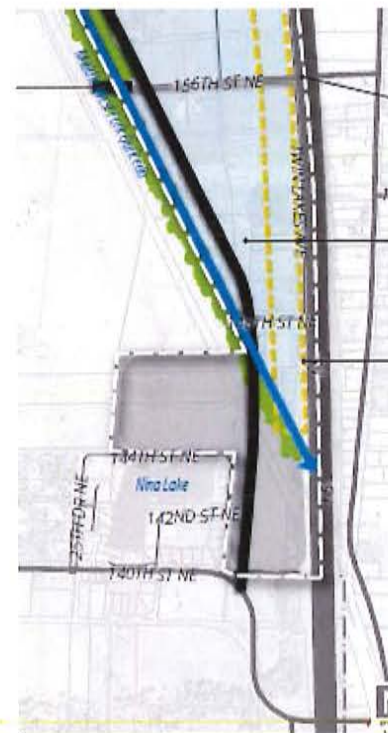
In the overall context the Lakewood Neighborhood Master Plan (LNMP) appears to be a very well thought out plan. However, we do have concerns with one element of this plan in particular. We are concerned the conceptual north-south corridor as depicted in the "Urban Design Concepts" map per Figure 13 as drawn south of 156<sup>th</sup> St NE will never get built. The need for an expensive overpass and the need to get land from the Tulalip Tribes are obstacles that seriously compromise the chances of this corridor ever being completed.

This north-south corridor is seen as the black line in the graphic. It starts at the south end on 140<sup>th</sup> St NE just east of the Nina Lake Community crossing through property currently owned by the Grove Church. At the north end of the Grove Church Property it crosses the Burlington Northern Railroad (BNRR) along the double tracks. Crossing the RR would require an overpass as this area is used by BNRR to stage freight trains waiting for other train traffic.

North of the RR, the overpass ramp would land somewhere north of 148<sup>th</sup> St NE. At this point it turns NW parallel to the BNRR tracks. The old Greenhouse Property has been purchased by the Tulalip Tribes and is being converted to Trust Land. It is very unlikely the Tulalips would allow a City Collector Arterial through this property.

These are two very major obstacles to this routing of the conceptual north-south transportation corridor. The City has a "dozen" at grade crossings it needs to "update" before considering another 20 to 30 million dollars for an additional overpass. This overpass would be expensive to build as it crosses the tracks at an angle closer to parallel than perpendicular. This angle over the tracks would require a much more substantial structure than one that crosses closer to perpendicular to the tracks.

The second obstacle, maybe even more formidable than the overpass, is counting on the Tulalip Tribes to give up a 70 or 80 foot corridor through their land. It is very unlikely this full route would ever be completed.





My understanding was that this route was desired as a means of moving traffic between Lakewood and the 136<sup>th</sup> St NE overpass (or vice-versa) and/or down to the 116<sup>th</sup> St NE on-ramp to I-5. We also now understand that the I-5 on-ramp at 156<sup>th</sup> St NE is funded. A Freeway on-ramp at 156<sup>th</sup> St NE creates a new "hub" for how traffic should mover through this part of the City.

There are more efficient and cost effective corridors for moving traffic both from Lakewood to 156<sup>th</sup> St. NE and for moving vehicles and patrons of the stores at the Lakewood from 140<sup>th</sup> St NE to 172<sup>nd</sup> than the conceptual route described above.

We believe the likelihood of the planned route ever being completed is extremely low; this means portions of this corridor will be built on segments of private owned land at a great burden to that landowner. These have the great potential of becoming 80 foot corridors to "nowhere".

We would like to suggest two alternate routes that would be a lot more likely to succeed.

**23<sup>rd</sup> Ave NE and 19<sup>th</sup> Ave NE Corridor:** Using the existing corridor along 23<sup>rd</sup> Ave NE to 156<sup>th</sup> St is a very efficient corridor. The roads already exist and are useable now. The same for is true for moving traffic from 172<sup>nd</sup> to 156<sup>th</sup> via 19<sup>th</sup> Ave NE. A roundabout is in the conceptual plan for the 19<sup>th</sup> Ave intersection.

Development of this corridor provides a very efficient route and requires the least amount of new infrastructure; roads are already in place. Future improvements can be funded with Frontage Improvements as land develops along the corridor. Frontage Improvements are a far less burden on landowners than having to pay for full Collector Road infrastructure inside the private property boundaries.

The "planned" corridor requires all new roads, an additional overpass, and obtaining land from the Tulalip Tribes. An overpass at the RR would also be required at 156<sup>th</sup>. An overpass at 156<sup>th</sup> is a more important overpass than the others given the funding for the on ramp to I-5 at 156<sup>th</sup>.

This corridor is currently outside the City but it is in the Rural Urban Transition Area, an area that had been planned for future annexation. An Interlocal Agreement with Snohomish County would be available. Annexation of this area may be a future event but is a lot more likely to happen than funding an "extra" overpass and obtaining Right of Way from the Tulalip Tribes.

**Twin Lakes Avenue:** Using the existing frontage road along the freeway does is the second most efficient and likely to be completed route. There is the existing corridor and Right of Way from 172<sup>nd</sup> to 148<sup>th</sup> St NE which avoids the problem with obtaining future Right of Way from the Tulalip Tribes. It currently connects the developed shopping center to the 156<sup>th</sup> St NE freeway overpass and future freeway on ramp.

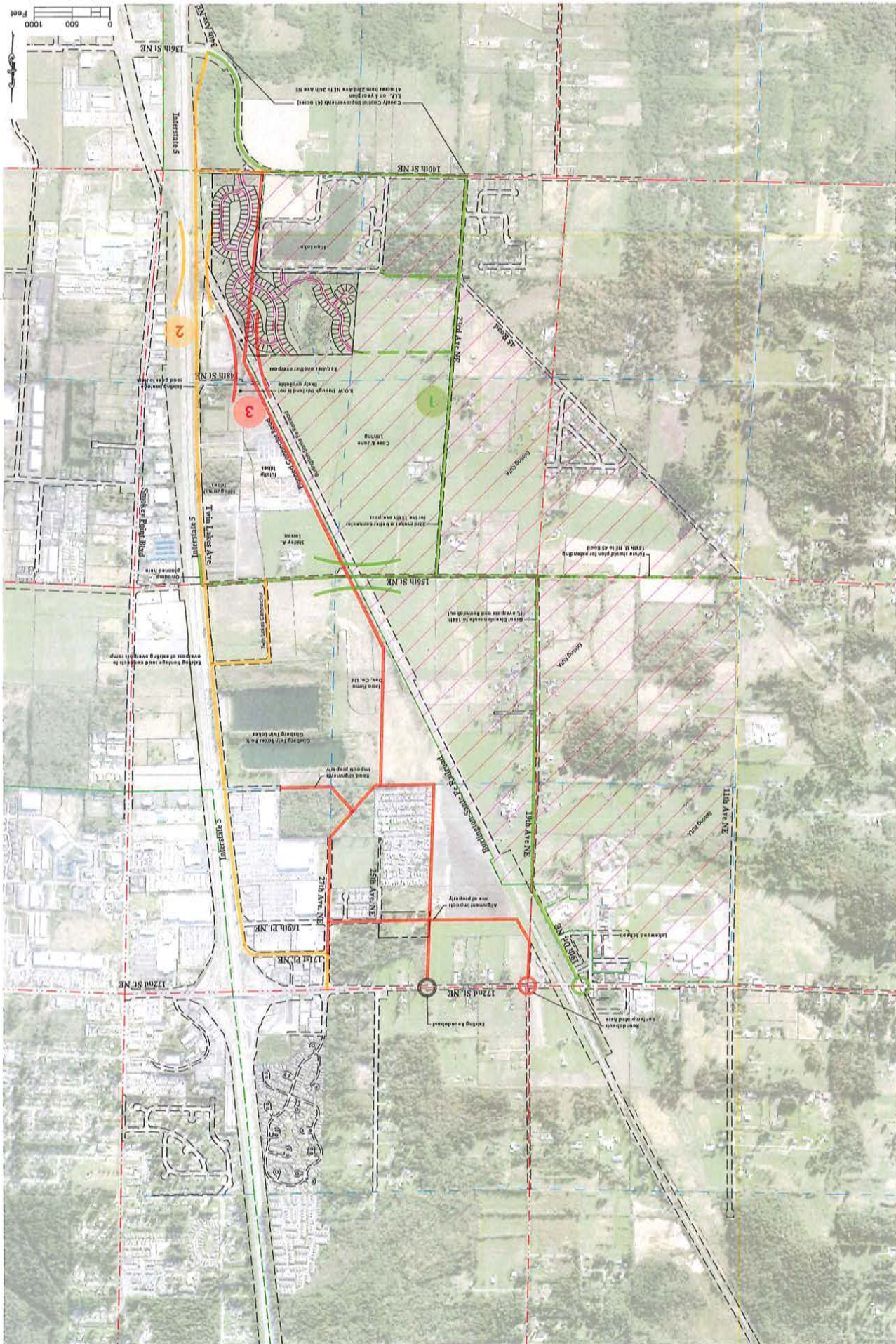
Based on the "desire" to connect with the 136<sup>th</sup> St NE interchange, this route does have the potential of a more direct connection.

This route would have to obtain Right of Way from 148<sup>th</sup> St NE south. It would require an additional overpass similar to the conceptual route.

Description	19 <sup>th</sup> and 23 <sup>rd</sup>	Twin Lake Frontage	Concept Plan Corridor
Existing Status	Road corridor is developed and usable today.	Existing corridor from 172 <sup>nd</sup> to 148 <sup>th</sup>	No existing infrastructure
Overpass requirement to complete circulation plans	One overpass at 156 <sup>th</sup>	Two, besides 156 <sup>th</sup> would require second overpass south of 148 <sup>th</sup>	Two, besides 156 <sup>th</sup> would require second overpass south of 148 <sup>th</sup>
Obstacles to completing corridor	Corridor and roads are existing. Would require Interlocal Agreement with County or future annexation to complete a Collector Road Plan.	Last ½ mile south unopened. Requires ROW from PUD/WSDOT and a couple of private landowners	Total corridor unopened. Requires obtaining land from Tulalip Tribes and several private landowners.
Funding of improvements	Developers in way of frontage improvements would fund improvements to the existing corridor as property develops. Public funding would be required for 156 <sup>th</sup> RR Overpass	Would require mostly public funding as land is developed, owned by government, or entities not likely to participate. Some sections would be funded by Developers as frontage improvements.	Significant burden put on several private landowners that would have to dedicate significant portions of their land. Requires public funding of second overpass.

**Extend 156<sup>th</sup> St NE from 19<sup>th</sup> to the 45 Road:** We would like to see added to the plan at least contemplation that 156<sup>th</sup> St NE be planned for extension from 19<sup>th</sup> Ave NE west back to the intersection of 45 Road and 11<sup>th</sup> Ave NE.

All of this area is in the RUTA Boundary and the City has Water Mains up 45 Road, up 11<sup>th</sup> Ave NE to the Grade School, along 23<sup>rd</sup> and 19<sup>th</sup>. We believe it would be prudent for the City to consider a plan for this RUTA area so it does not develop awkwardly as rural subdivisions.



Item 5 - 177

Lakewood Neighborhood Master Plan—Alternate Corridor Options



1. Green Shaded Corridor is the 19<sup>th</sup> and 23<sup>rd</sup> Corridor that provides the most efficient and economical corridor between Lakewood and 140<sup>th</sup> ST NE
2. The Orange Shaded Corridor is the Twin Lakes Corridor
3. The Red Shaded Corridor is the conceptual planned corridor currently in the Lakewood Neighborhood Master Plan. Because of obstacles this corridor is the least likely to ever get completed.

CHARLES T. COLE (1961-2003)  
ROBERT R. COLE  
GREGORY L. GILDAY

LAW OFFICE OF  
**COLE & GILDAY, P.C.**  
FIRST NATIONAL PROFESSIONAL CENTER  
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(360) 629-2900  
FAX (360) 629-0220  
COLE-GILDAY@STANWOODLAW.NET

September 26, 2016

City of Marysville  
1049 State Avenue  
Marysville, WA 98270

Dear Sirs:

RE: Andrew Sather Estate  
Lakewood Plan Draft-4/16

The owners of TPNs 310529-002-009-00 and 310529-002-013-00 would like to weigh-in with thoughts as to the alignment of public infrastructure within the Lakewood neighborhood master plan area. The Estate's property is highlighted in Blue on the enclosed map.

Bottom line is, the Estate is very much supportive of the alignment set out in Option #2 in the attached map. This is our reasoning.

We understand that the present plan is to install a main sewer trunk parallel to the railroad tracks along with a hiking/biking trail. Running the main North/South road system in the same location is the most efficient use of the property. Access for future maintenance of the sewer system will be easier, and the trail system on the West side of the road would also serve as a sidewalk.

This configuration also seems safer, in that the future residences on the Sather property will be farther removed from the Railroad and possible dangers of a derailment. Also, if that did occur, emergency responders would have it much easier and quicker. It would also be safer to have the trail separated from the future residences by a roadway rather than the trail running next to their side yards. One often reads of families complaining about inconsiderate or criminal behavior by people using public trails next to their houses; this includes littering, trespass, burglary and general annoyances.

Finally, future residents on the Sather property will have more pleasant and livable surroundings being somewhat farther away from the railroad tracks.

Having the main North/South line alongside the tracks and trail would remove the need for 23<sup>rd</sup> Avenue to run the length of the Sathers' eastern boundary. The existing residences to the East are doing fine without it, and the Sather properties would be served by the road paralleling the tracks. We are supportive of jogging 169<sup>th</sup> Place NE a little to the South to make for less of an impact to the neighbor's proposed development, and we believe it would help our property's future development also, in making the portion north of 169<sup>th</sup> more usable on its own.

Thank you for considering this input.

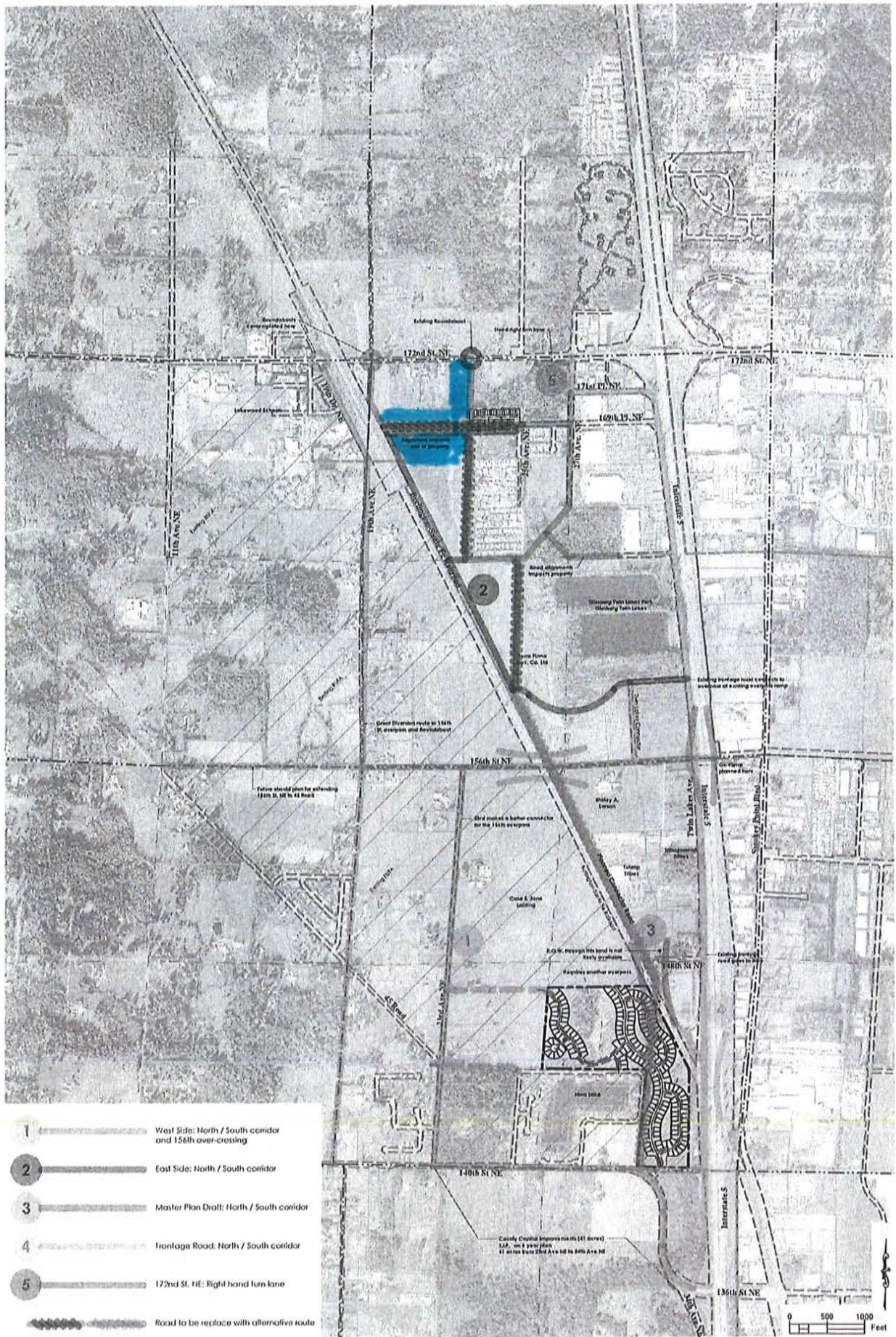
Very truly yours,

LAW OFFICE OF COLE & GILDAY, P.C.

A handwritten signature in black ink, appearing to read "R. R. Cole". The signature is fluid and cursive, with the first name "R" being particularly large and stylized.

Robert R. Cole

RRC  
Enclosure(s)



- 1 - West Side: North / South corridor and 156th over-crossing
- 2 - East Side: North / South corridor
- 3 - Master Plan Draft: North / South corridor
- 4 - Frontage Road: North / South corridor
- 5 - 172nd St. NE: Right hand turn lane
- Road to be replaced with alternative route



**Bailey, Duskin & Peiffle, P.S.**  
ATTORNEYS AT LAW

Copy for your information  
BAILEY, DUSKIN & PEIFFLE, P.S.  
Attorneys at Law  
P.O. Box 188  
Arlington, WA 98223  
(360) 435-2168

STEVEN J. PEIFFLE  
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BRADLEY E. NEUNZIG

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September 26, 2016

Marysville Planning Commission  
c/o Marysville Community Development Dept.  
80 Columbia Avenue  
Marysville, WA 98270

**Received**

SEP 26 2016

City of Marysville  
Community Development

Re: Sather Dairy Family, LLC  
Our File No. 10370

To whom it may concern:

This office represents the Sather Dairy Family, LLC, the owners of Snohomish County Tax Parcel #31052900201401, located at 16429 19<sup>th</sup> Avenue NE, Arlington, WA. The property is an approximately 19 acre parcel just south of 172<sup>nd</sup> Street.

The purpose of this letter is to go on record to express our client's grave concerns about the road circulation proposal in the draft "Lakewood Neighborhood Master Plan" April 2016 draft ("the Master Plan") prepared by Makers, a Seattle consulting group. My clients are very concerned that Makers is not adequately informed regarding the property within the Plan and its unique needs.

We strongly object to the proposed road layout or configuration and encourage the Planning Commission to reject the proposed road configuration shown in the draft Master Plan at Figure 13. That road layout effects a significant taking of my clients' developable property by requiring that my clients dedicate land on the west side of their property for a pedestrian or multi use trail and sewer facility, and land on the east and north sides of the property for road right of way and associated curb/gutter/sidewalk and stormwater facilities. The most appropriate development mechanism is for these facilities, together with water and sewer facilities, to all be located in the same "corridor" so as to minimize the impact on the property owners.

Instead, we encourage the Planning Commission to support the alternative #2



Marysville Planning Commission  
9/26/2016  
Page 2

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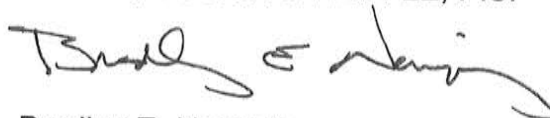
East Side: North/South road alignment as shown on the attached map. This alignment accomplishes a number of important safety and infrastructure concerns:

- Infrastructure efficiency: Combining the roadway, multimodal trail system, and utility systems as proposed on the alternative roadway would be the most efficient and would minimize the taking of my clients' property. Situating the sewer trunk line under the roadway in that location would make maintenance of the sewer line less expensive. Having the utilities in the road corridor is consistent with good engineering practices.
- Public safety: routing the main north-south roadway on the west side of my clients' property would provide greater protection to the residents of the area by buffering the future residential areas from the Railroad and its impacts. The impacts of the railroad on the city of Marysville have long been known and the City has gone on record in recent years as being concerned about the potential for environmental risks associated with train traffic, most particularly the increased coal and oil trains along the BNSF railway. Putting a roadway on the west side of the property instead of the east side would create a buffer in the event of any environmental catastrophe caused by a derailment in this area. In addition, having a roadway in that area would facilitate any needed emergency response.
- Aesthetics and livability: the future residents of this area would have a much more aesthetically pleasing and livable surroundings if there were greater separation from the main line of the railroad, particularly with streetscapes that would help mitigate the visual impacts of development.

We strongly encourage the Marysville Planning Commission to consider the alternative road circulation proposal attached and to work with, and not against, the property owners whose property is going to be most affected by the proposed Plan.

Very truly yours,

BAILEY, DUSKIN & PEIFFLE, P.S.

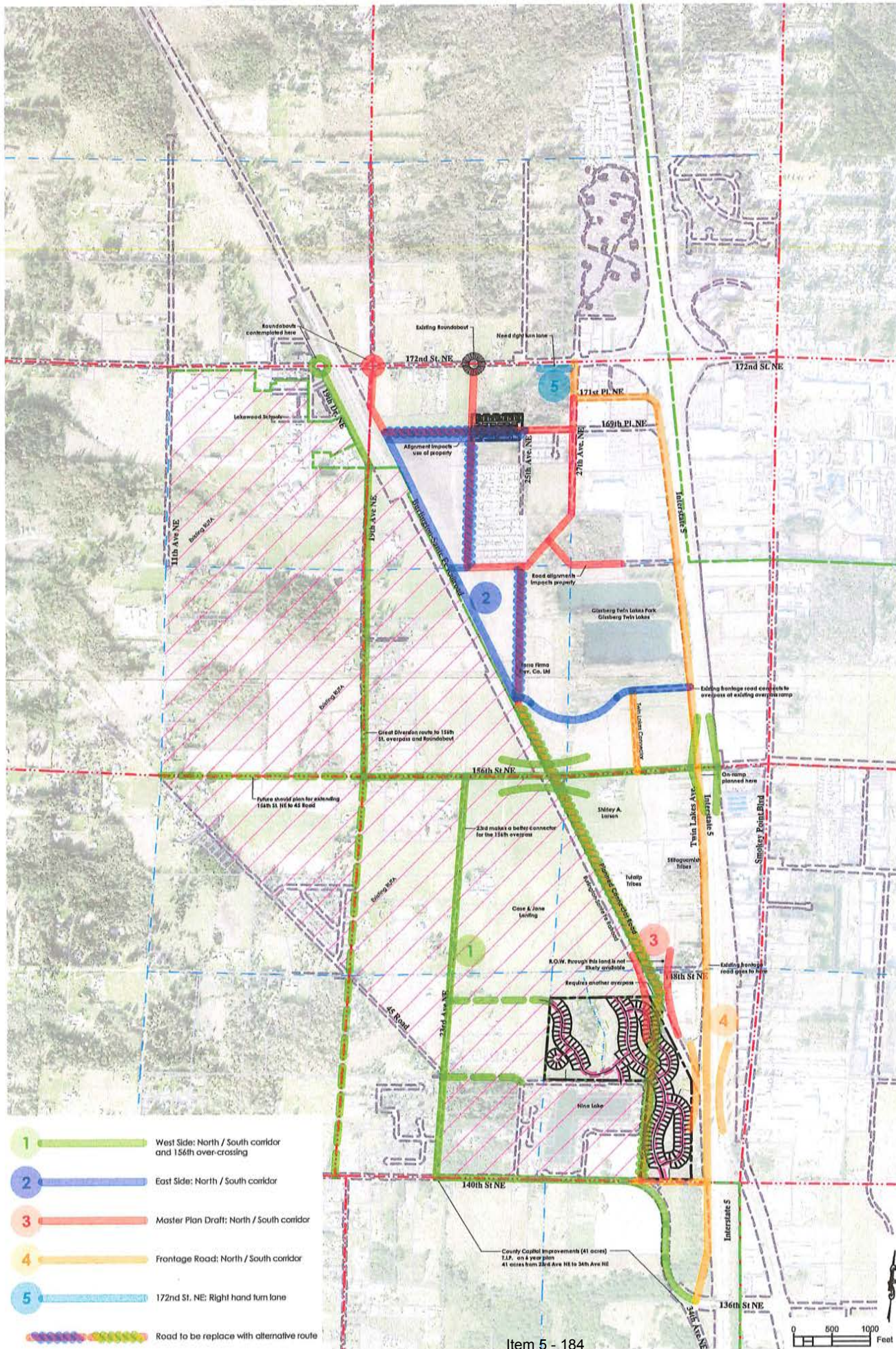


Bradley E. Neunzig

BEN/em

Encl.

cc: Chris Holland, Senior Planner



- 1 West Side: North / South corridor and 156th over-crossing
- 2 East Side: North / South corridor
- 3 Master Plan Draft: North / South corridor
- 4 Frontage Road: North / South corridor
- 5 172nd St. NE: Right hand turn lane
- Road to be replace with alternative route



**Bailey, Duskin & Peiffle, P.S.**  
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October 25, 2016

Marysville Planning Commission  
Marysville City Hall  
1049 State Ave.  
Marysville, WA 98270

Re: Estate of Margaret Hanson  
Our File No. 8301-2

Dear Planning Commission Members:

I represent Margaret Larson in her capacity of Personal Representative of the Estate of Margaret Hanson, Snohomish County Superior Court case #12-4-00130-3. Many of you know or know of Margaret as the former Mayor of the City of Arlington.

My client asked me to comment on the proposed "Lakewood Neighborhood Master Plan" prepared by Makers and I understand this is the subject of a work session of the Planning Commission on the evening of October 25. We request that you consider this input prior to taking any further action on the draft plan.

The Margaret Hanson Estate owns Snohomish County Tax Parcel #31051900401200, also known as 17406 – 19<sup>th</sup> Ave. NE, Marysville, WA. The Hanson family was among the pioneer families of the Lakewood area.

My client strenuously objects to elements within the draft Lakewood Neighborhood Master Plan as it is currently constituted, most specifically the designation of Railway Crossing Neighborhood Center on the Hanson property, which is inappropriate. My client urges the Planning commission to start over, or at the very least to be much more definitive about what the City of Marysville intends to do to the "Lakewood Neighborhood" in general and my client's property specifically.

**Received**

OCT 25 2016

City of Marysville  
Community Development

Although the Master Plan states that one of its purposes is to “tie Lakewood to its rural history”, that cannot be accomplished on most of the portions of the Master Plan shown in the plan as the proposed “Lakewood Community Overlay”. The property to the east of the railroad crossing is completely different from the property to the west of the railroad crossing. To the extent there is historical value to be preserved in the area, that is all located to the west of the railroad right of way in the older buildings located there. Virtually all of the land on the east side of the railroad right of way is vacant, undeveloped land, formerly used as farm land but no longer viable for long term farming due to the development occurring to the east. Much like the Island Crossing property to the North, the addition of this area to the Marysville Urban Growth area and subsequent annexation, together with the creation of a “regional commercial center” (Lakewood Crossing) rang the death knell for maintaining any kind of rural, historical, bucolic, farming nature of the property.

Rather, it appears that what the City wants to do is “slow ball” development in the area by creating the so-called “Lakewood Community Overlay”. According to the plan, the purpose of this overlay is to “ensure that Lakewood maintains at least a piece of its history and rural character” (p. 9-10). That is a laudable concept in the abstract, but the only history and rural character on my client’s 18+ acres of land is an old 1911 farmhouse that even the County recognizes has minimal value (\$65,000 per the most recent assessment). While the vision the City may be pursuing sounds positive in the abstract, my client’s property is subject to the actual feasibility of such a vision. My client does not share the belief that the demand for such a vision exists in the real world, nor that such a vision would be shared by the lenders who have to finance the construction of projects, now or any time in the near future. I am not aware of any market studies which support this proposed vision.

As with most land use concepts, “the devil is always in the details”, and the details for the “Lakewood Community Overlay” are notably missing. The document states that even the boundary of the Overlay zone is not definitive—leading us to wonder when that determination will be made, and by whom? Will the details be left to the City Planning staff to make a case-by-case determination? While this would preserve maximum flexibility, it will also potentially lead to inconsistent and arbitrary decision-making.

More importantly, the plan is noticeably lacking in the details of the development regulations. The consultant surely had something in mind when figuring out how the overlay would “encourage adaptive re-use of existing buildings over time to maintain a rural crossroads character”, see Figure 17, but no information is available concerning how the development regulations are supposed to achieve this. However, maintaining a rural character in an urban growth boundary is the complete opposite of what is contemplated within a city governed by the Growth Management Act (GMA).

Maintaining rural land character is reserved for “patterns of land use and development established by a county in the rural element of its comprehensive plan”, RCW 36.70A.030(15), not for a GMA city to effectively downzone land for some non-urban purpose.

The Plan also references the Lakewood Design Guidelines, which have significant impacts on the property owners in this vicinity. In order for the property owners like my client to be able to effectively comment on these, the City should propose regulations which address the specific design standards proposed for the “Railroad Crossing Neighborhood Center” for review by property owners and the public. Once those have been developed and proposed, the City should invite public and broad participation in the development of these guidelines, as well as the Master Planning Process, as required by the GMA. RCW 36.70A.035.

The Design Guidelines leave a tremendous amount of authority in the apparent discretion of the Community Development Director, who seems to have the ability in the Guidelines to impose requirements at times over and above the requirements of the code. Development regulations should allow property owners to determine, from review of the code alone, whether a potential use will or will not be allowed, and they simply do not. Leaving determinations to the unfettered discretion of the Community Development Director is a recipe for arbitrary and capricious decision-making, and an invitation to litigation.

If the City staff or the Planning Commission wish to encourage certain types of development, then my client would support the adoption of development incentives to accomplish that goal, so long as the underlying ability to develop remains the same as in other mixed use (MU) zoned parcels in the City. Without those incentives for development, the additional regulations may effectively accomplish a “taking” of my client’s property rights.

The specific additional development requirements, burdens and demands on my client relating to the use and development of the Estate’s property are simply unclear if the Railroad Crossing Neighborhood Center and Lakewood Community Overlay are enacted. Most specifically, my client’s property should not suffer from additional requirements when compared to other MU zoned parcels in the Lakewood Neighborhood Master Plan area, or in the City of Marsyville generally.

From a practical standpoint, the proposed Master Plan and related documents create yet another potential process for a developer to go through which is solely related to development in this area, as opposed to regulations which apply throughout the City. Processing development proposals in each area through different regulations simply creates more of a bureaucratic mess for property owners—particularly

Marysville Planning Commission  
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Page 4

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Lakewood area property owners--to wade through and try to comply with.

We encourage the Planning Commission not to make a "rush to judgment" to push through the proposed Master Plan and the "Lakewood Community Overlay". The proposed Plan and Overlay are not consistent with the intentions of the Growth Management Act, and the City should re-think the concept of the Overlay Zone, which will create a long-term legacy—likely not a good one—for the City and its citizens. It is inappropriate to impose unknown and arbitrary design concepts on one group of property owners within the same zone as others within the master planning area.

Very truly yours,

BAILEY, DUSKIN & PEIFFLE, P.S.



Steven J. Peiffle

SJP/ms

Encl.

Cc: Margaret Larson  
Chris Holland, Planning Manager

**Chris Holland**

---

**From:** Brian Kalab <brian@insightengineering.net>  
**Sent:** Tuesday, October 25, 2016 3:35 PM  
**To:** Chris Holland; Cheryl Dungan; Jesse Hannahs  
**Cc:** noordinsayani@executivehotels.net; Santhosh Moolayil; Richard van Mourik  
**Subject:** Montesa Preapp Traffic Comments

Hi Chris,

Thanks for meeting with us today. I wanted to summarize the traffic portion of our meeting so that Chris can convey our sentiments to the planning commission workshop tonight. It is our understanding from the preapp meeting that the city would like to have several arterials and roundabouts constructed through the Montesa plat property, for the purpose of providing a secondary exit from the Lakewood planning area. The arterials would connect the developments north of the property to the overpass and future entry/exit to I5 along 156<sup>th</sup> Street NE.

While we are not opposed to the arterial connections, the scope of the arterial road construction is disproportionate to the residential lot yield on the Montesa plat and hence uneconomical for the property owner to construct. This landowner has contributed a significant amount to the LID for the 156<sup>th</sup> Street overpass and is willing to participate in another type of group funded initiative for the extension of the arterials. However, we think that the funding needs to be a city initiative and not piecemealed by different and varied developers.

Please raise our concerns to the planning commission and notify us of future public planning commission meetings, regarding this area. If there is an opportunity for the public to speak, we would like to voice our stance to the planning commission. We look forward to working with you and your team on this matter.

Thank You,

Brian R. Kalab, P.E.

Insight Engineering Company

2804 Grand Ave. Ste 308

Everett, WA 98201

[\(425\) 303-9363](tel:(425)303-9363)

[\(425\) 303-9362](tel:(425)303-9362) FAX



Emmett Heath, Chief Executive Officer

November 23, 2016

Mr. Chris Holland  
 City of Marysville  
 80 Columbia Ave.  
 Marysville, WA 98270

**RE: DRAFT Lakewood Neighborhood Master Plan**

Dear Chris,

Community Transit appreciates the opportunity to provide comments on long range planning projects and current development proposals being considered by our jurisdictional partners. Because local land use authorities have the greatest impact on our ability to provide transit service, it is our policy to evaluate projects for their compatibility with Community Transit's current operations and Long Range Transit Plan to ensure the agency can continue to provide public transportation and services in an efficient manner throughout Snohomish County.

Community Transit congratulates the City of Marysville for preparing this subarea plan, which is experiencing significant growth and change. In general, mixed-use development and greater residential densities support efficient bus operations when transit infrastructure is included as part of the road network design.

Our staff is providing the following comment for your consideration:

The plan does not include any consideration for future transit service in the Streetscape Design Guidelines or the Neighborhood Roadways chapter.

Although Community Transit does not currently have bus service in this area, with the exception of Route 240 that runs between Smokey Point Transit Center and Stanwood via 172<sup>nd</sup> St NE, this area could be served in the future. The proposed I-5 interchange at 156<sup>th</sup> St NE provides opportunities for better bus connectivity and routing between the greater Lakewood area and Smokey Point Blvd. In order to provide bus service on the proposed Lakewood Neighborhood road network, we request the City of Marysville further discuss the proposed road profile with Community Transit staff. Our preferred road lane width is 12 feet; however, depending on the configuration (i.e. on-street bike lane, parking, etc.), we can operate on lanes as narrow as 11 feet 6 inches. This wider lane width accommodates our bus with the mirrors. Attached for your reference is information from the National Association of City Transportation Officials (NACTO) Transit Street Design Guidelines, which are generally consistent with Community Transit's operating requirements.

Thank you again for the opportunity to provide comments on the Draft Lakewood Neighborhood Master Plan. We look forward to discussing future transit service opportunities in this area.

Sincerely,

Kate Tourtellot, AICP, Senior Transportation Planner  
 kate.tourtellot@commtrans.org  
 (425) 348-2314

Enclosure

cc: Community Transit Development Review Team



(<http://nacto.org/>)



National Association of City Transportation Officials (<http://nacto.org/>)

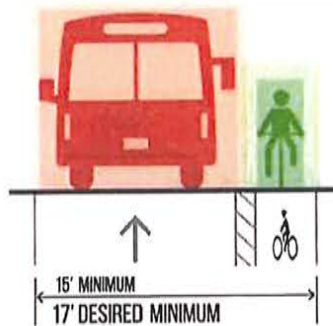


## Transit Street Design Guide

GUIDE NAVIGATION ▼

(<http://nacto.org/publication/transit-street-design-guide/>)

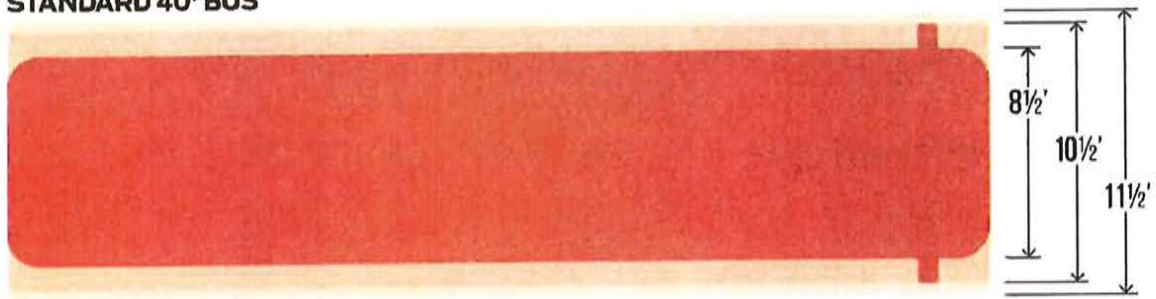
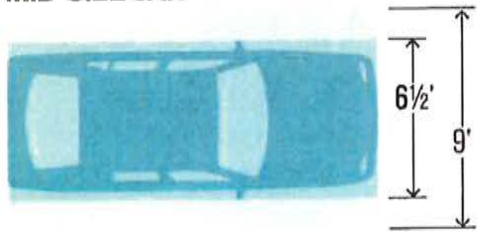
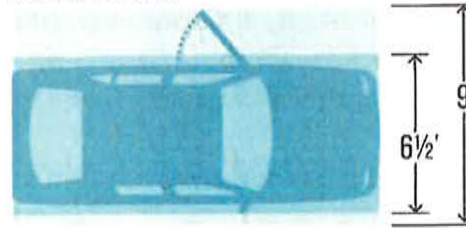
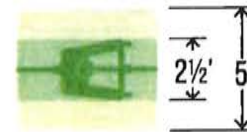
PURCHASE GUIDE ([HTTP://ISLANDPRESS.ORG/BOOK/TRANSIT-STREET-DESIGN-GUIDE](http://islandpress.org/book/transit-street-design-guide))



## Vehicle Widths & Buffers

**Street users and vehicles occupy different amounts of space depending on their size and speed. Lane design should accommodate transit vehicles at a speed that is safe within the overall street context, supporting consistent and reliable operations.**

**Buffers shown here are not lane widths, but represent the operating envelope and minimum distance to adjacent objects when in motion, and can overlap with adjacent lanes.**

**STANDARD 40' BUS****MID-SIZE CAR****PARKED CAR****BOX TRUCK****BICYCLIST****DISCUSSION**

The width of vehicle lanes affects street safety and travel speeds. Narrower lanes generally result in slower travel speeds while increasing street safety for all users. For private motor vehicles in particular, narrower lane width, down to 10 feet or narrower in special cases, is correlated with all-user safety benefits.

Buses are among the largest vehicles operating on city streets, with mirror widths often exceeding available lane space. Where buses operate in a narrow mixed-traffic lane, intrusion into adjacent lanes may sometimes occur, such as when two buses pass each other. Ensure that adjacent lanes in a street section can occasionally accommodate such movements when needed.

Vulnerable users like bicyclists should always be given sufficient space to operate safely at a comfortable distance from fast-moving traffic or from larger vehicles like buses and trucks, outside of the door zone.

Design for rail vehicles must factor dynamic vehicle envelopes, critically around turns and elevation

Lane widths are determined in the context of both the design vehicle, or the regular user, and the control vehicle, or the infrequent but largest user. The design vehicle uses one lane, while the control vehicle may intermittently require the use of multiple lanes (refer to the *Urban Street Design Guide* for additional information). On many transit streets, the transit vehicle is both the design and control vehicle—both the regular and largest user.

Vehicles have both clearly defined vehicle spaces (the size of the vehicle itself) as well as a buffer space (or operating space) which defines the space needed to operate comfortably at a moderate speed. Wider vehicles can be accommodated in narrower lanes on an infrequent basis—even where street space is constrained, vehicles may on occasion use a part of an adjacent lane where the whole street section provides enough space to do so safely. Overlapping buffer zones can be safely accommodated at slower speeds.

Encouraging safe transit movement while accommodating efficient operations requires a predictable, even, and low-speed environment. Narrower transit lanes that are co-implemented with signal and intersection treatments, in-lane stops, appropriate stop spacing, and adjacent buffer zones, allow transit to progress comfortably at consistent speeds.

While transit vehicles in constrained spaces are sometimes subject to mirror strikes, wider mixed-traffic lanes can increase the number and severity of total crashes in which transit vehicles are involved.

Where buses use a travel lane adjacent to a bicycle lane, both bus and bike operational comfort are enhanced by providing a buffer space between them where width is available.

changes. Vehicles on a fixed guideway cannot move around obstructions.

On streets with existing vehicle speeds above 35 mph, it may be necessary to introduce narrower lanes along with other design measures to lower vehicle speeds to a safe level for transit and pedestrians, or to fit a dedicated transit facility.

Lane width considerations for specific facilities are included in Transit Streets (<http://nacto.org/publication/transit-street-design-guide/transit-streets/>).

## RECOMMENDATIONS

Bus lanes may be 10–11 feet wide when offset, and 11–12 feet when configured curbside or in transitway adjacent to an opposing lane of bus traffic.

Where space is available, use buffers rather than widened lanes to reduce side-swipe risks without increasing design speed. In mixed-travel lanes, assign added width to buffer zones to visually narrow lanes.

Shared bus-bike lanes may be 10–11 feet wide along segments where neither is expected to over take the other, such as where bus volumes are moderate or where bus speeds are low. Passing at stops may be accommodated with a 13-foot shared lane.

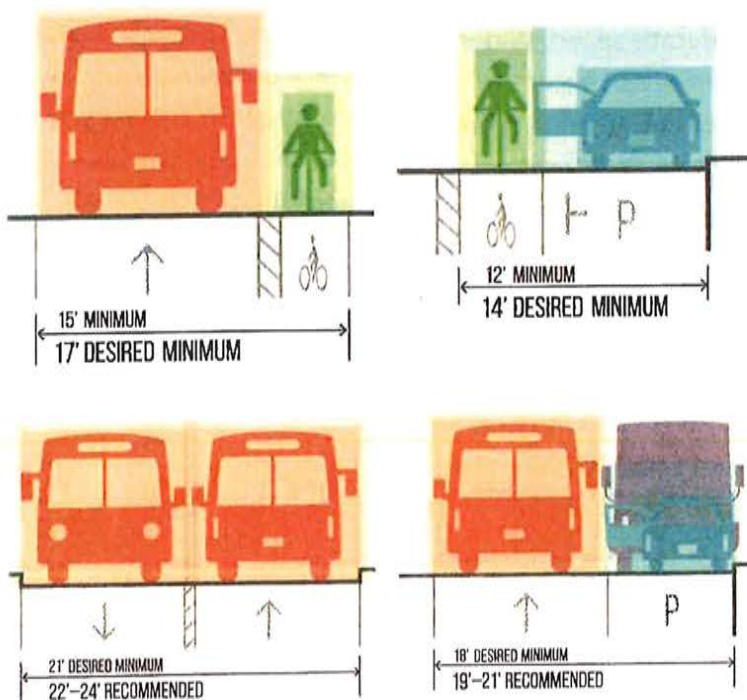
Where wide trucks commonly park or load in a parallel parking lane, potentially obstructing transit service in the adjacent travel lane, consider a parking buffer or wider travel lane.

In-street rail vehicles, including streetcar/tram/trolley and multi-unit LRVs, can operate in travel lanes 10–11 feet wide, depending on vehicle model. Mirror clearance may be a more significant factor for streetcars than for buses. Guideway and vehicle operating space must remain clear of obstacles, such as wide vehicles parked in an adjacent lane.

## ADJACENT LANE WIDTHS & USER ENVELOPES

Combine these pairs of adjacent uses to configure a street, accounting on a case-by-case basis for existing space constraints and operational characteristics.

The assembly of adjacent lanes should account for friction and user comfort; the buffer envelopes of users may overlap infrequently or at low speeds. Minimum widths



may not provide a comfortable operating space over long distances.

### Design Vehicles

(<http://nacto.org/publication/transit-street-design-guide/transit-lanes-transitways/lane-design-controls/design-vehicles/>)

(<http://nacto.org/publication/transit-street-design-guide/transit-lanes-transitways/lane-design-controls/design-speed/>)

### Design Speed

## References

---

Transit Street Design Guide

- Vehicle Widths & Buffers

Keyword

Select city, or lea

SEARCH REFERENCES

## Designing Cities 2016: Seattle



**Bailey, Duskin & Peiffle, P.S.**  
ATTORNEYS AT LAW

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BRADLEY E. NEUNZIG

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(360) 435-2168  
FAX (360) 435-6060

December 13, 2016

Marysville Planning Commission  
Marysville City Hall  
1049 State Ave.  
Marysville, WA 98270

Re: Estate of Margaret Hanson  
Our File No. 8301-2

Sent via email and regular mail

Dear Planning Commission Members:

Pursuant to my earlier correspondence of 10/25/16, I represent Margaret Larson in her capacity of Personal Representative of the Estate of Margaret Hanson, Snohomish County Superior Court case #12-4-00130-3. The Margaret Hanson Estate owns Snohomish County Tax Parcel #31051900401200, also known as 17406 – 19<sup>th</sup> Ave. NE, Marysville, WA.

I have reviewed the Planning Commission meeting minutes of 10/25/16. In it, I was encouraged to read the statements by Planning Manager Chris Holland that “any mixed use zone within the Lakewood area has the same rules and requirements for development as anything along 172<sup>nd</sup> including the Hanson estate. The City is not applying any additional regulations to this property.” Although Mr. Holland has not followed up with me as promised in the meeting, those reassurances are positive.

However, there remains statements in the plan which are concerning. For example, at page 8 of the plan, the statement remains “Consider placing a “Lakewood Community Overlay” on the area marked in brown on Figure 13 to encourage adaptive re-use over time rather than full redevelopment.” The area depicted in brown includes my client’s property. As I indicated in my 10/25/16 letter, “adaptive re-use over time rather than full development” sounds like a euphemism for “slow balling” development contrary to the requirements of the Growth Management Act. At a minimum, my clients

Marysville Planning Commission  
12/13/2016  
Page 2

---

would recommend that the "Lakewood Community Overlay" not be applied to their property in the iteration of the plan to be adopted by the Planning Commission and City Council.

We thank the Commission for the opportunity to address these issues and request that the plan be modified to make clear that, as stated in the October 25 Planning Commission meeting minutes, no additional burdens would be imposed on my client's property besides those generally applicable to mixed use development within the City. I would appreciate the courtesy of a confirmation by planning staff that our understanding is correct within the next ten days' of receipt of this letter.

Very truly yours,

BAILEY, DUSKIN & PEIFFLE, P.S.



Steven J. Peiffle

SJP/ms

Encl.

Cc: Margaret Larson  
Chris Holland, Planning Manager

PLANNING  
COMMISSION



MINUTES

October 25, 2016

7:00 p.m.

City Hall

**CALL TO ORDER**

Chair Leifer called the October 25, 2016 meeting to order at 7:00 p.m. noting the excused absence of Commissioners Andes and Thetford. He noted that Commissioner Richards had informed them he would be arriving late.

**Roll Call**

**Chairman:** Steve Leifer

**Commissioners:** Roger Hoen, Kay Smith, Brandon Whitaker, Kelly Richards<sup>1</sup>

**Staff:** Planning Manager Chris Holland, Community Development Director Dave Koenig

**Absent:** Jerry Andes, Tom Thetford

**APPROVAL OF MINUTES**

October 11, 2016

**Motion** made by Commissioner Hoen, seconded by Commissioner Whitaker, to approve the October 11 Meeting Minutes.

Chair Leifer referred to page 3, the first full paragraph, and noted that the second *Lake Stevens* in the first sentence should be corrected to **Lakewood**.

**Motion** passed unanimously (4-0) to approve the minutes as corrected.

**AUDIENCE PARTICIPATION**

None

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<sup>1</sup> Commissioner Richards arrived at 7:15 p.m. and left at 8:20 p.m. due to family obligations.



## PUBLIC HEARING

### WSDOT ROW Annexation –Pre-Zone

Chair Leifer opened the hearing at 7:03 p.m. and noted there was no one in the audience. Planning Manager Holland commented that they had received no comments on this item. He stated that staff was seeking a recommendation of approval for the Council.

Commissioner Hoen asked if there were any residences involved in this. Planning Manager Holland replied that there were not.

Public Comment – None

**Motion** made by Commissioner Hoen, seconded by Commissioner Whitaker, to forward this to the City Council with a recommendation for approval. **Motion** passed unanimously (4-0).

The public hearing was closed at 7:06 p.m.

## OLD BUSINESS

### Lakewood Neighborhood Master Plan

Planning Manager Holland commented that the City received a letter today from Bailey, Duskin, and Peiffle regarding the estate of Margaret Hanson. He stated that there are some misconceptions in the comments and noted he has not had a chance to speak to these people yet. There is no overlay within the plan. It just talks about how the areas could function based on proposed developments. Any mixed use zone within the Lakewood area has the same rules and requirements for development as anything along 172<sup>nd</sup> including the Hanson estate. The City is not applying any additional regulations to this property. Any project action would be subject to the Design Guidelines based on the type of use. He clarified that there is nothing in the plan that is more stringent on the Hanson property than any other mixed use parcel in the area. He stated he would be following up with a letter to representatives of this estate explaining that.

Chair Leifer asked how the “Lakewood Community Overlay” verbiage in the Plan might have played into this misunderstanding. Planning Manager Holland explained it just highlights the assets of the area and identifies what *could* happen in the area, not necessarily what *will* happen. Chair Leifer asked if there is any intent to somehow make that area different than the rest of the areas zoned mixed use in the zone from I-5 to 19<sup>th</sup>. Planning Manager Holland replied there is not. He stated that he thinks a simple conversation with the estate will clear up this matter.

Chair Leifer asked about the other letter. Planning Manager Holland stated there was a pre-application today for the Sayani property. As part of the pre-application review, staff

met with them regarding future road alignments. Based on that, they wanted to submit something via email quickly for the Planning Commission's consideration about financing those road improvements. They are not contesting the connectivity; they are just concerned about the cost and would rather participate in some kind of an LID. They also had concerns about the sewer. Planning Manager Holland said he encouraged them to meet with their neighbors to discuss this so they might be able to come to an agreement about how to finance these improvements. He explained to them that the Plan itself is not a financing document. He also informed them that amendments to the Transportation Element will be made to include the arterials within the Lakewood Neighborhood to be on the traffic impact fee calculation. This could result in the possibility of land dedication for right of way that can be credited against traffic impact fees.

Chair Leifer recommended staff talking with the owners of the Hanson property before the Planning Commission takes any action. He commented that the letter regarding the Sayani property had also been received and noted.

Chair Leifer asked if the Level of Service in that area could be problematic for some of the development they are trying to improve the roads for. Planning Manager Holland explained that right now it isn't, but that could change as future development occurs. The acceptable Level of Service of 172<sup>nd</sup> is Level of Service D. Chair Leifer asked how this might impact development in that area. Planning Manager Holland replied that would be up to the traffic engineers to determine. If a development would impact any intersections to a Level of Service that's unacceptable then they need to propose improvements to bring it up to an acceptable Level of Service. Community Development Director Koenig explained that the City could also look at the interchange in anticipation of it being built and factor that into a conditional approval.

Planning Manager Holland presented the Draft Design Guidelines and solicited comments from the Planning Commission. He explained this expands on what is currently in place for the City. The overlay area encourages adaptive reuse of existing building over time to maintain a rural crossroad character. It requires buildings orient to the human-scale local streets. It provides for Pedestrian-Oriented Public Areas Designations, including commercial areas and streets, trails and parks. It requires high-quality common open space for new multi-family development. It requires comfortable pedestrian routes that connect to a Lakewood-wide "active transportation" network.

Commissioner Richards asked if this could open things up for more crime. Planning Manager Holland noted that could be, but more eyes in an area also acts as a deterrent. This also allows police to drive by and be able to see what is going on.

He continued to explain that the guidelines would require commercial buildings to provide a well-defined streetscape; pedestrian oriented facades; weather protection over building entries; pedestrian sidewalks required between parking lots and storefronts; smaller builder elements near the entries of large buildings in order to maintain a human scale; façade modulation and articulation; and detail elements. It

would build on the existing character and would require an active ground floor on specific street sections.

Chair Leifer commented these seem like a regurgitation of what was developed for downtown. Planning Manager Holland agreed that the design regulations expand upon the East Sunnyside-Whiskey Ridge, and Downtown Design Guidelines.

Chair Leifer referred to the letter regarding the estate of Margaret Hanson where they expressed concern about the guidelines being modified at the discretion of the Community Development Director. He asked what the likelihood is of that happening. Planning Manager Holland explained that they would all be reviewed administratively, and no one wants it to go to a design review board.

Director Koenig explained that the discretion of the Community Development Director allows for some flexibility to modify and try different things when it makes more sense. Chair Leifer referred to the letter from Sayani and asked if they would be required to stub sewers through their property so they can be continued on to the north. Director Koenig replied they would look at that and see where the sewer should be and what would be needed for that development. If there are increased costs, such as increased sewer size or water size, those would be credited to their fees.

Planning Manager Holland reviewed the Draft Vehicular Network Map for the Lakewood Neighborhood Master Plan. He noted that these are all concepts, and it really will depend on the development that happens. He also reviewed the Land Technologies Road Connection Proposal, the Leifer Road Connection Proposal, and the Andes Road Connection Proposals

Chair Leifer referred to the Lakewood "Triangle" and noted it allows for sort of a beltway concept with the opportunity to make some lateral connections. He agrees with the idea that all the traffic will be hitting the roundabout at 19<sup>th</sup> and come down the right-of-way along the railroad if they're not going to the shopping center. He also thinks that the people coming south on 23<sup>rd</sup> are going to get off on 19<sup>th</sup> and head down the railroad if they want to get on the freeway or go to over the overpass. Planning Manager Holland replied that the residential people would not be likely to go west to go south. They would just head south. These residential people would mainly be coming from the Wakefield and Vintage complexes. Chair Leifer discussed how he sees potential traffic patterns of drivers and commented that he feels 23<sup>rd</sup> Avenue would be redundant. He also stated that the confluence of the railroad right-of-way arterial and 23<sup>rd</sup> down by the lower end of the property by the mobile home park would create kind of a choke point. He asked if staff has taken a closer look at how that would be resolved. Planning Manager Holland replied that it is likely to be a roundabout at that location.

Chair Leifer summarized that he would be supportive of this road plan if there was a designation on the section south of 169<sup>th</sup> on 23<sup>rd</sup> to allow access to the property owners there on the basis of a collector arterial based on what he thinks will actually happen with that section of road. He agrees that Wakefield and that development will use it, but doesn't think that is a big number of trips in a day relative to what an arterial can carry.

Planning Manager Holland referred to section 4.1.3 which states that specific alignments have not been identified for the planned collector roads. Alignments will be defined as part of future corridor studies or as adjacent properties are developed. Some of the other planned collector roads also may be classified as arterials in the future depending on specific design and access requirements at the time the corridor is developed. Chair Leifer commented that this would allow for the concept of local access. Planning Manager Holland agreed. Planning Manager Holland commented that this is the kind of language he would like to put in the plan. Chair Leifer commented that he thinks the arterial going down the railroad would probably be a minor or a primary arterial. Planning Manager Holland thought it could carry quite a bit of traffic, but it definitely needs to be looked at.

Chair Leifer commented that when you're going north on 30<sup>th</sup> Avenue NE with a truck and trailer, it's impossible to get around the corner without going into the other lane. This is the reason he proposed his initial plan to connect there in order to provide a greater width.

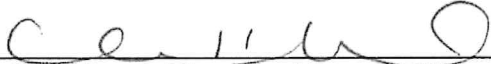
There was consensus to hold a hearing for the Capital Facilities Plans for the school districts on November 9.

## **CITY COUNCIL AGENDA ITEMS AND MINUTES**

### **ADJOURNMENT**

**Motion** made by Commissioner Smith, seconded by Commissioner Whitaker, to adjourn the meeting at 8:31 p.m. **Motion** passed unanimously.

**NEXT MEETING** – November 9

  
Chris Holland, Planning Manager for  
Laurie Hugdahl, Recording Secretary

# *Index #6*

## CITY OF MARYSVILLE AGENDA BILL

### EXECUTIVE SUMMARY FOR ACTION

#### CITY COUNCIL MEETING DATE: 3/6/2017

AGENDA ITEM: Approval of Special Event Application; Snohomish Running Company "Everett Half Marathon" Running Event	
PREPARED BY: Carol Mulligan DEPARTMENT: Community Development	DIRECTOR APPROVAL:
ATTACHMENTS: 1. Copy of Special Event Permit Application. 2. Copy of Traffic Control Plan: Route Map and Narrative. 3. MMC 5.46 "Special Events".	
BUDGET CODE:	AMOUNT:

#### SUMMARY:

Snohomish Running Company has submitted an application to obtain a permit to conduct "Everett Half Marathon" running event on Sunday, April 9, 2017. The applicant of the proposed event is requesting the temporary street closure of northbound SR529/State Avenue to 2<sup>nd</sup> Street, the eastbound lane of 2<sup>nd</sup> Street from State Avenue to Alder Avenue, the southbound lane of Alder Avenue from 2<sup>nd</sup> Street to the south side of 1<sup>st</sup> Street, both lanes of Columbia Avenue from the south side of 1<sup>st</sup> Street to 2<sup>nd</sup> Street, and 1<sup>st</sup> Street from Columbia Avenue to State Avenue, while allowing for emergency vehicle access.

The Community Development Staff has reviewed all related department comments and determined that this application has been submitted in its entirety and to the satisfaction of all said departments.

<p><b>RECOMMENDED ACTION:</b> The Community Development Staff recommends City Council approve the application for Snohomish Running Company to conduct a special event on Sunday, April 9, 2017, including the temporary street closure of northbound SR529/State Avenue to 2<sup>nd</sup> Street, the eastbound lane of 2<sup>nd</sup> Street from State Avenue to Alder Avenue, the southbound lane of Alder Avenue from 2<sup>nd</sup> Street to the south side of 1<sup>st</sup> Street, both lanes of Columbia Avenue from the south side of 1<sup>st</sup> Street to 2<sup>nd</sup> Street, and 1<sup>st</sup> Street from Columbia Avenue to State Avenue, as requested by the applicant.</p>
--



## SPECIAL EVENT PERMIT APPLICATION

Community Development Department ♦ 80 Columbia Avenue ♦ Marysville, WA 98270  
 (360) 363-8100 ♦ (360) 651-5099 FAX ♦ Office Hours: Monday - Friday 7:30 AM - 4:00 PM

FOR AGENCY USE	Date:	File:	Fee: \$100.00
NAME OF EVENT		PROPOSED DATES	
Everett Half # 10k		4-9-17	
APPLICANT	SPONSORING NON-PROFIT	EVENT ORGANIZER	
Name	Grant Harrington	Snohomish Running Company	
Mailing Address	4826 Pointes Dr.		
City, State, ZIP	Mukilteo, WA 98275		
Phone (home/office)	425-772-8395		
Phone (cell)	Same		
E-mail	grant@snohomishrunning.com		
SITE INFORMATION			
Set-up date/time	5:00am 4-9-17	Dismantling Date/time	11am 4-9-17
Estimated number of participants	750	Will admission fee be charged? (please note amount)	Yes, it varies from \$40 → \$70, online
Hours of operation	8:00am - 10:30am		
Will alcohol be served at event? (if yes please explain)	no		
Type of activity planned (Describe event) and Proposed Activities	This is a half-marathon and 10K run and run/walk event.		
Location to be used (Describe area to be used, attach map/route plan)	The event will begin and end at the Port of Everett. The course will have runners coming into Marysville via 529 to 2 <sup>nd</sup> to Alder to 1 <sup>st</sup> out and back on Columbia back to 529.		
List any City Assistance that May be Required.	We will need road signs and police assistance in closing off roads. See attached maps.		
Does event involve political or religious activity intended primarily for the communication or expression of ideas?	no		

City of Marysville – Special Event Permit Application

**RECEIVED**

JAN 17 2017

CITY OF MARYSVILLE  
 PUBLIC WORKS &  
 COMMUNITY DEVELOPMENT

City of Marysville – Special Event Permit Application

Applicant Signature

I hereby agree to abide by the conditions listed on Page 2 of the Special Event Permit Application:

*[Handwritten Signature]*

Applicant Signature

Dated this 10<sup>th</sup> day of January, 2017

City of Marysville Approval

City Clerk or Designee

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

(For Official Use Only)

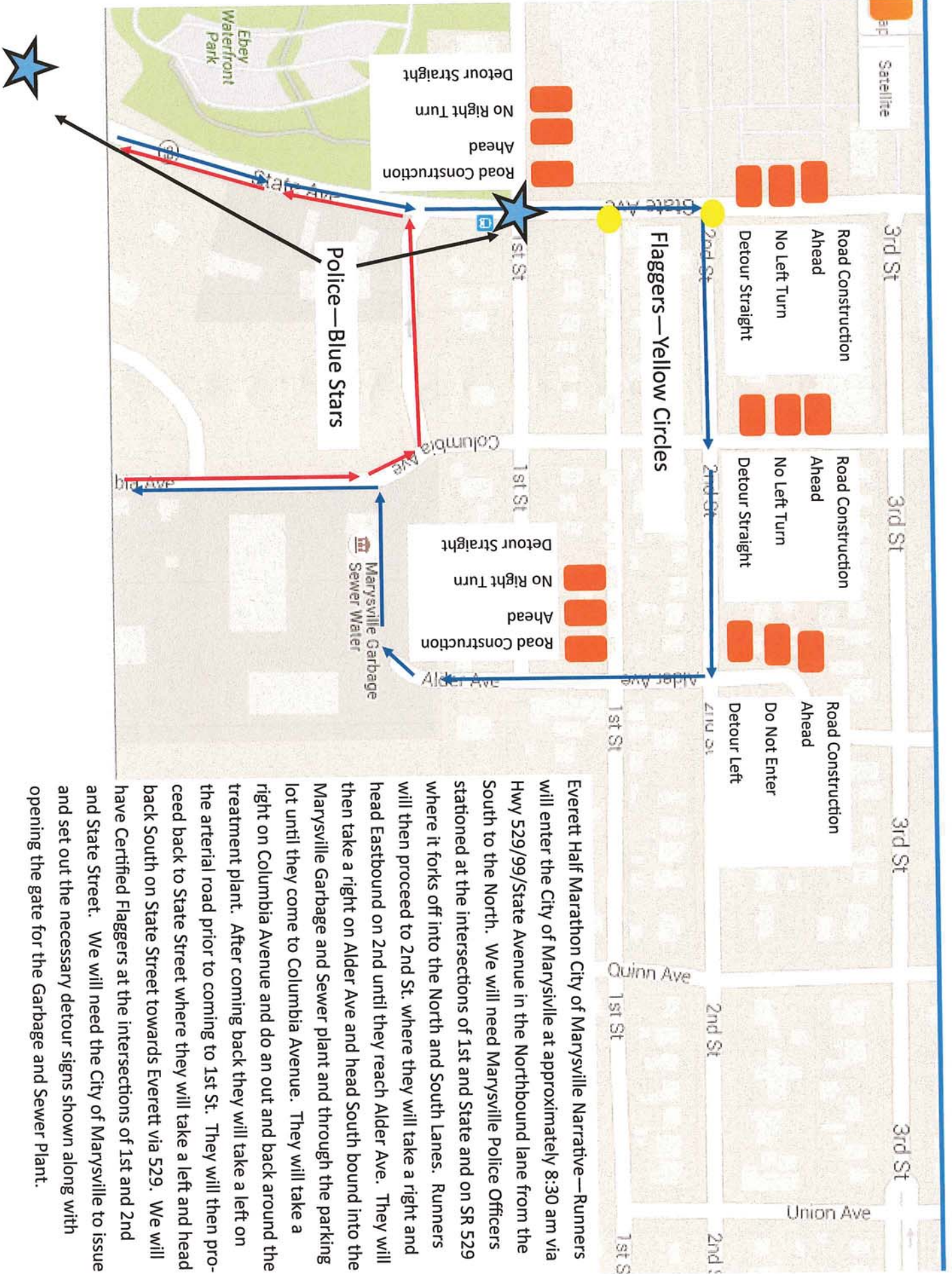
- |                    |                          |       |                        |
|--------------------|--------------------------|-------|------------------------|
| Approved By: _____ | Parks & Recreation Dept. | _____ | Sanitation Division    |
| _____              | Planning Division        | _____ | Surface Water Division |
| _____              | Building Division        | _____ | Finance Dept.          |
| _____              | Streets Division         | _____ | Fire District          |
| _____              | Police Dept.             | _____ | Mayor/Designee         |

Permit detained for the following reasons:
Recommended approval under the following conditions:
Number of monitors/staff required: Proof of Insurance? (Please circle) Yes No
Bond required? (Please circle) Yes No
Recommended approval to proceed with liquor licensing:
Pre-event walk through scheduled for:
Post-event walk through scheduled for:

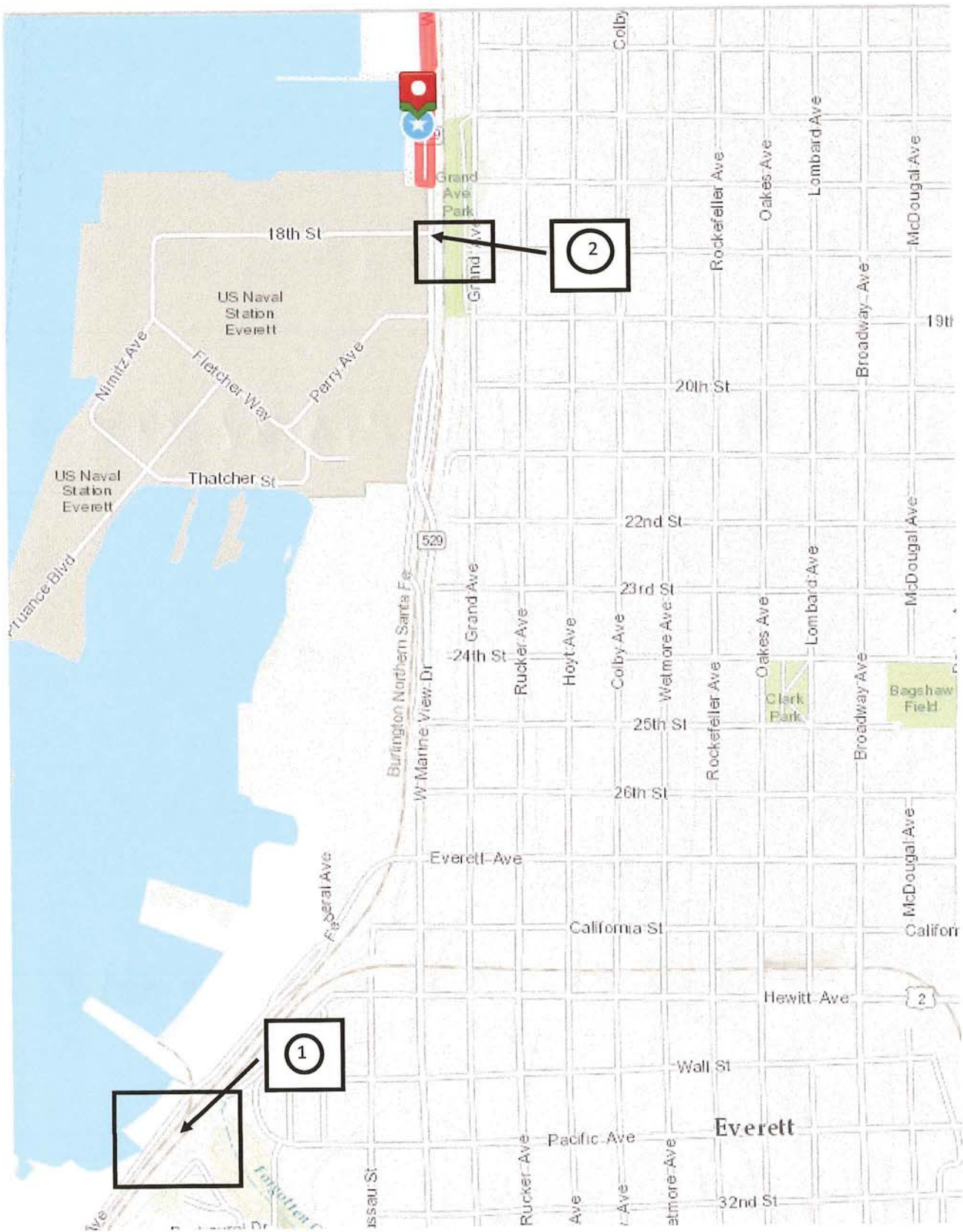
Attachments:

- Estimate of Expenses
- Sample advertising materials



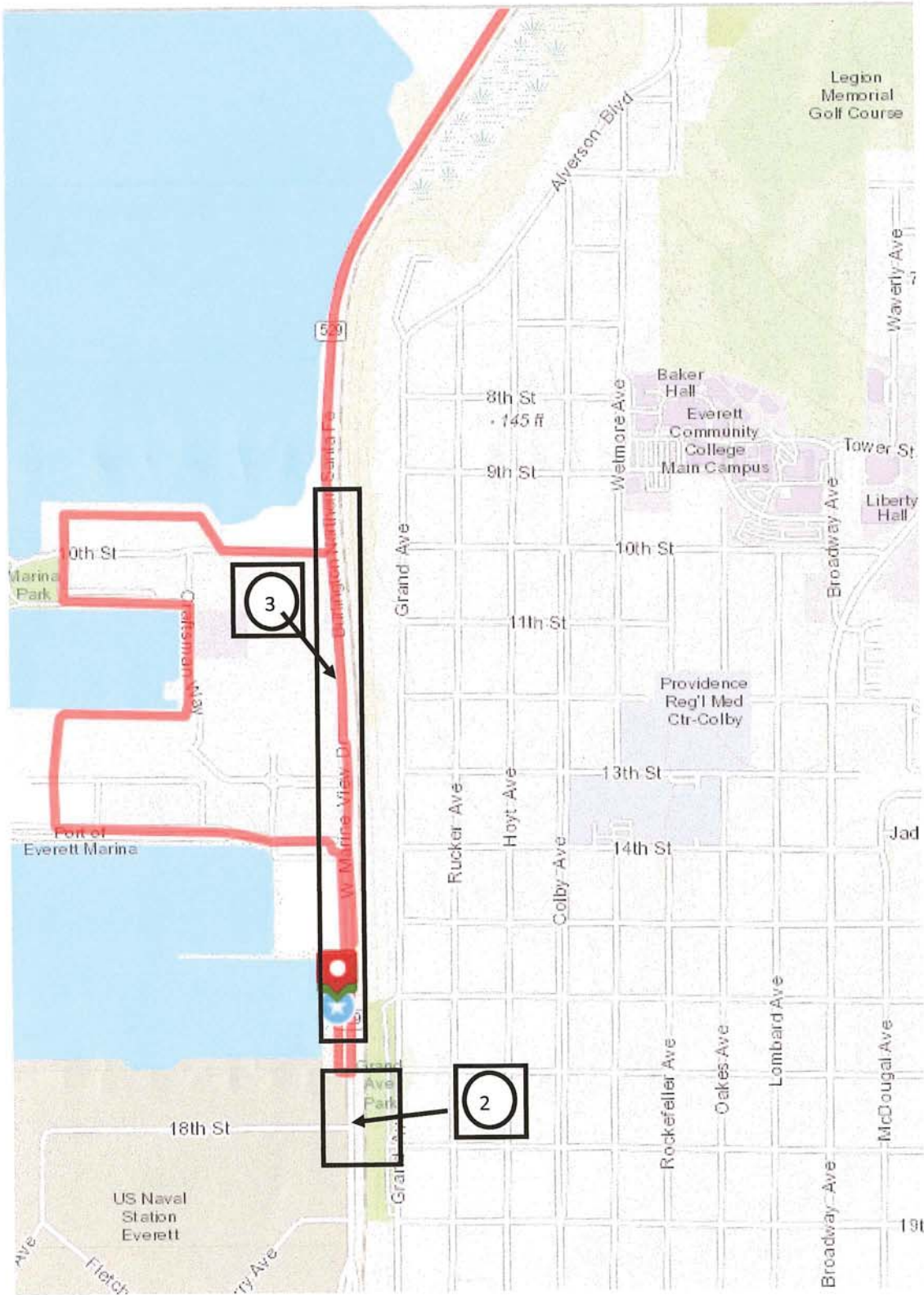


Everett Half Marathon City of Marysville Narrative—Runners will enter the City of Marysville at approximately 8:30 am via Hwy 529/99/State Avenue in the Northbound lane from the South to the North. We will need Marysville Police Officers stationed at the intersections of 1st and State and on SR 529 where it forks off into the North and South Lanes. Runners will then proceed to 2nd St. where they will take a right and head Eastbound on 2nd until they reach Alder Ave. They will then take a right on Alder Ave and head South bound into the Marysville Garbage and Sewer plant and through the parking lot until they come to Columbia Avenue. They will take a right on Columbia Avenue and do an out and back around the treatment plant. After coming back they will take a left on the arterial road prior to coming to 1st St. They will then proceed back to State Street where they will take a left and head back South on State Street towards Everett via 529. We will have Certified Flaggers at the intersections of 1st and 2nd and State Street. We will need the City of Marysville to issue and set out the necessary detour signs shown along with opening the gate for the Garbage and Sewer Plant.

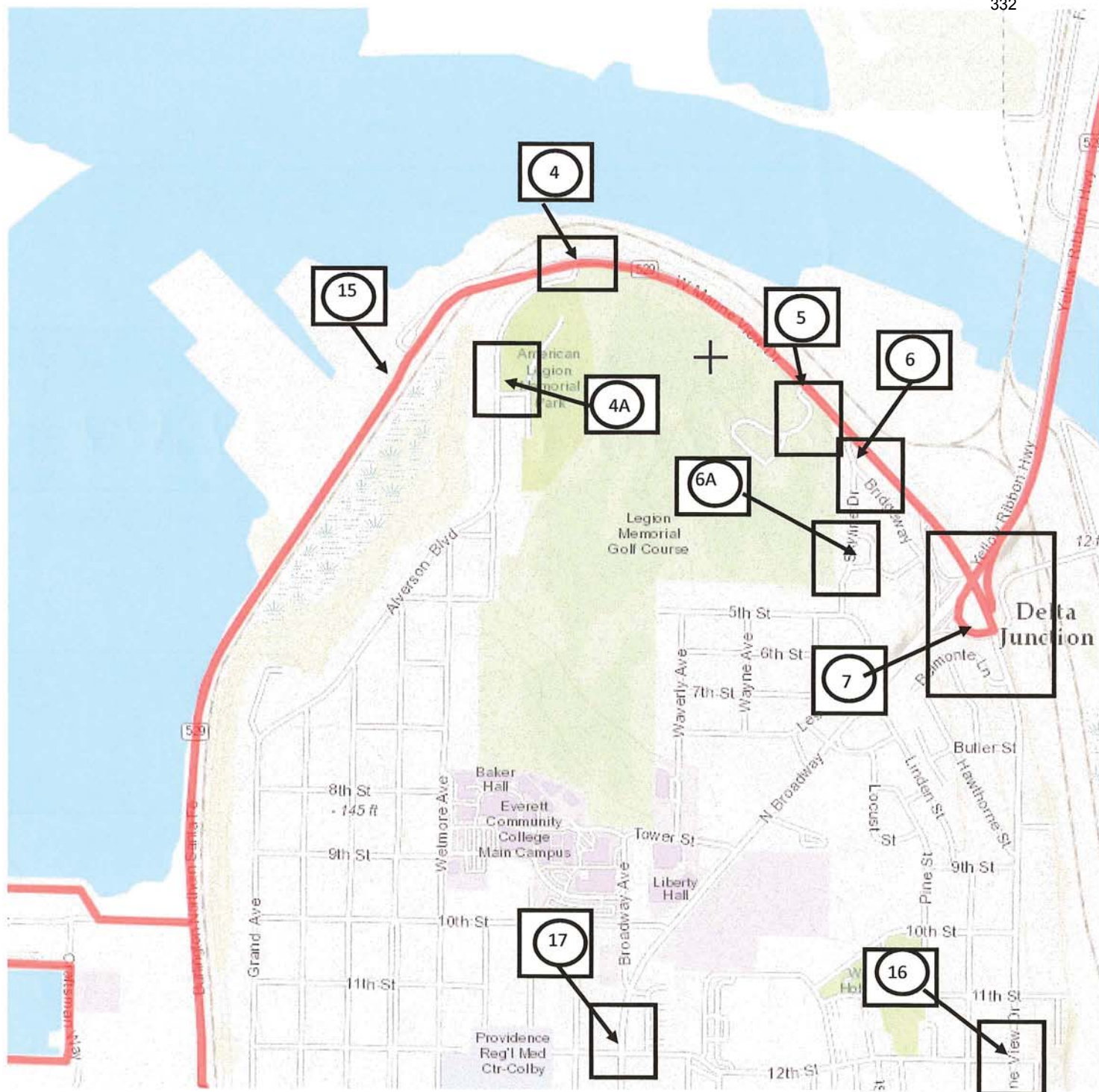


**Key Notes**

- 1. W. MARINE VIEW DRIVER AND EVERETT AVENUE  
PLACE SIGN M-9 (APPROPRIATE DIRECTION) REFER TO WSDOT STD PLAN K-10.40.00
- 2. WEST MAIN STREET AND 18<sup>TH</sup> STREET  
NB WMVD CLOSE. INTERSECTION CONTROLLED BY POLICE OFFICER AND FLAGGER  
REFER TO DETAIL SHEET 2



- 2. WEST MAINRE VIEW DRIVE AND 18<sup>TH</sup> STREET  
NB WMVD CLOSE. INTERSECTION CONTROLLED BY POLICE OFFICIER AND FLAGGER  
REFER TO DETAIL SHEET 2
- 3. VARIOUS STREETS AND DRIVEWAYS  
RIGHT TURN OUT ONLY. PLACE SIGN W1-1 AT EACH STREET AND DRIVEWAY



4. NB ALVERSON BLVD CLOSED  
 PLACE TYPE III VARRICADE  
 SB WEST MARINE VIEW DRIVE NO LEFT TURN TO ALVERSON BLVD

15. PLACE TRAFFIC CONES ALONG W MARINE VIEW DRIVE FROM 18<sup>TH</sup> STREET TO BORADWAY/SR259 INTERCHANGE. MINIMUM SPACING 50'

4A. TEMPORARY TURNAROUND FOR NB ALVERSON BLVD TRAFFIC  
 PLACE SIGNW20-3

16. NB MARINE VIEW DRIVE AND 12<sup>TH</sup> STREET  
 PLACE DETOUR SIGN M4-9 (APPROPRIATE DIRECTION)  
 PLACE SIGN R11-4  
 PLACE ADVANCED WARING SIGN R11-1501 POST FIVE A MINIMUM OF FIVE DAYS IN ADVANCE OF CLOSURE (SEE DETAIL THIS SHEET) FOR NB TO WB DETOUR

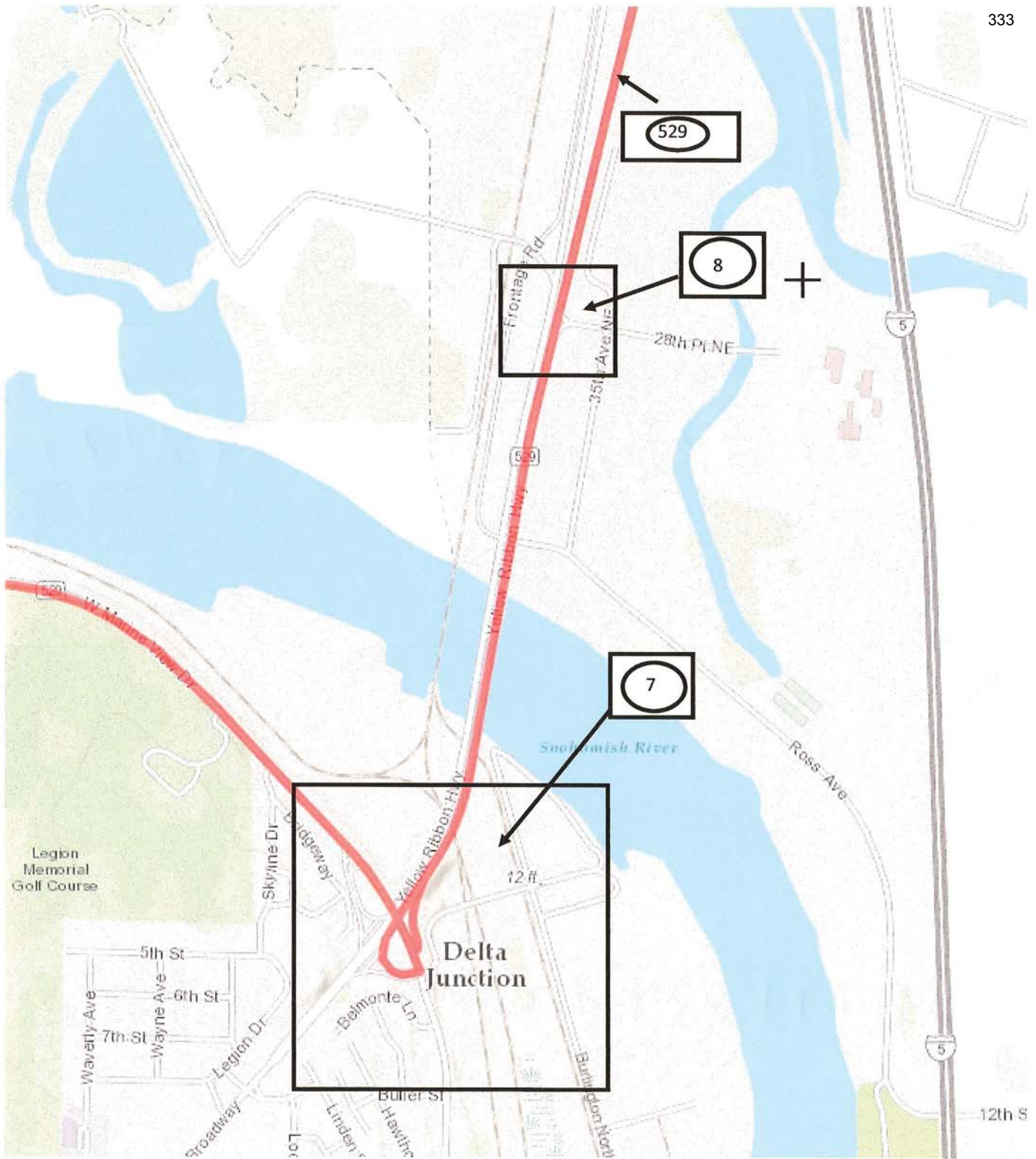
5. FLAGGER AT LEGION PARK  
 LEFT TURN FROM WB WMV/D ONLY. FLAGGER TO STOP VEHICLES CROSSING NB WMVC TO ENTER  
 PLACE SIGN W20-7A SIGN SPACING 350'

17. SB BORADWAY TO 12<sup>TH</sup> STREET  
 PLACE DETOUR SIGN M4-9 (APPROPRIATE DIRECTION) FOR SB TO EB DETOUR

6. NB SKYLINE DR CLOSED  
 PLACE TYPE III BARICADE  
 SB WEST MARINE VIEW DRIVE NO LEFT TURN TO SKYLINE DR  
 PLACE SIGN R3-2

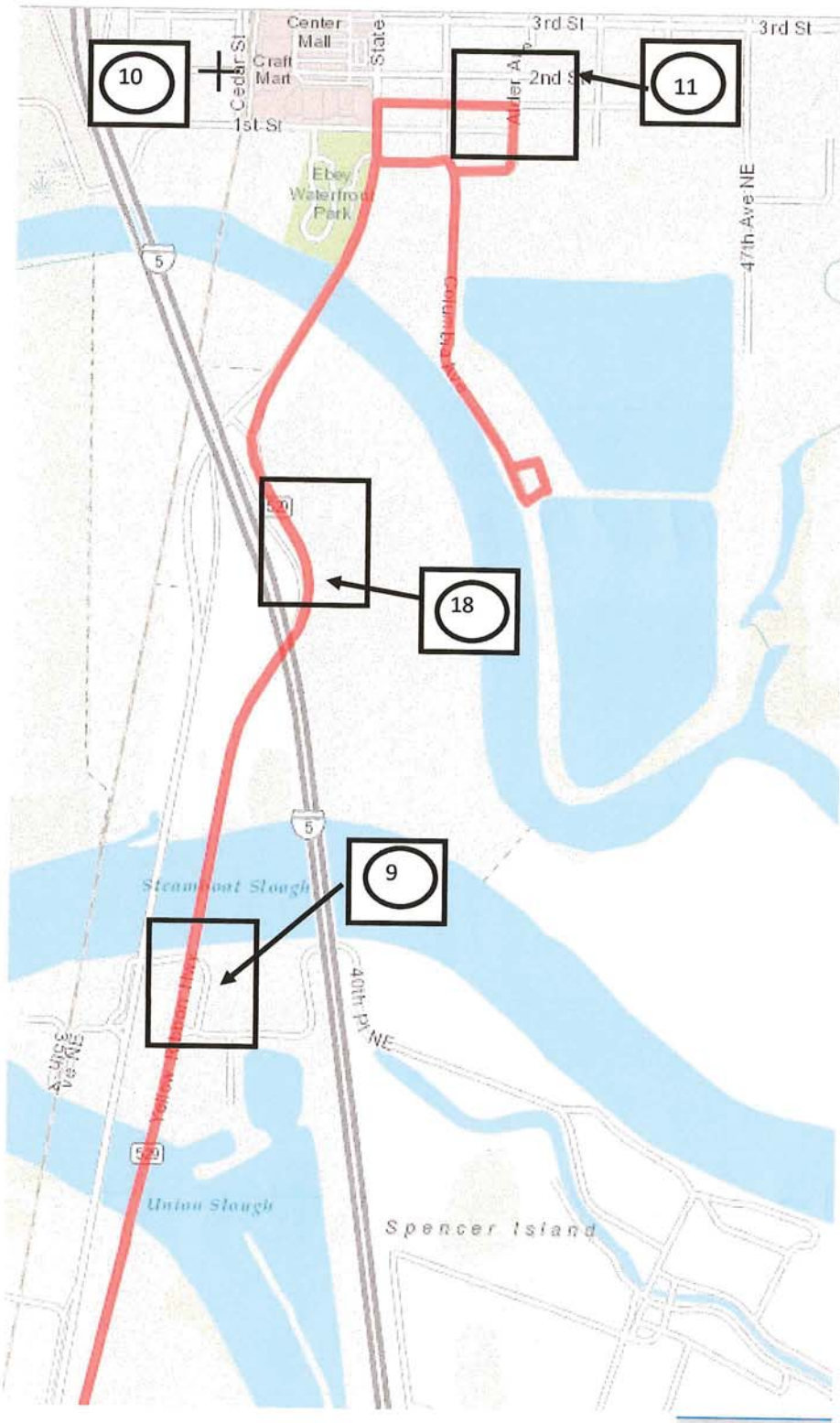
6A. TEMPORARY TURNAROUND FOR NB SKYLINE DR TRAFFIC

7. BROADWAY INTERCHANGE  
 REFER TO DETIAL SHEET 2



7. BROADWAY INTERCHANGE  
REFER TO DETAIL SHEET 2

8. WB 28<sup>TH</sup> PLACE NE COLSED  
PLACE TYPE III BARRICADE AND FLAGGER  
PLACE SIGN W20-7A SIGN SPACING 350'  
PLACE SIGN R11-15-1 POST A MINIMUM OF FIVE DAYS IN ADVANCE OF CLOSURE (SEE  
DETAIL THIS SHEET)



9. WB40TH PLACE NE CLOSED  
 PLACE TYPE III BARRICADE AND FLAGGER  
 PLACE SIGN PLACE SIGN W20-7A. SIGN SPACING 350'  
 DETAIL THIS SHEET  
 SIGN DAY AND TIME TEXT MODIFICATIONS TO BE DETERMINED

18. PLACE CONES AND MONITOR TO RESTRICT ACCESS TO I-5 RAMP FROM NB SR529

10. SB 529 (STATE AVE) CLOSED SOUTH OF 1<sup>ST</sup> STREET  
 REFER TO DETAIL SHEET 3

11. SB COLUMBIA AVE CLOSED SOUTH OF 1<sup>ST</sup> STREET  
 REFER TO DETAIL SHEET 3

## Chapter 5.46 SPECIAL EVENTS

### Sections:

- 5.46.010 Definitions.
- 5.46.020 Special event permit required.
- 5.46.025 Exceptions to special event permit requirement.
- 5.46.030 Permit application.
- 5.46.040 Approval.
- 5.46.050 Fees.
- 5.46.060 Departmental analysis.
- 5.46.070 Insurance required.
- 5.46.080 Denial of permit.
- 5.46.090 Appeal.
- 5.46.100 Sanitation.
- 5.46.110 Revocation of special event permit.
- 5.46.120 Cost recovery for unlawful special event.
- 5.46.130 Expressive activity special event.
- 5.46.140 Penalties for violation.

### **5.46.010 Definitions.**

---

Terms used in this chapter shall have the following meanings:

- (1) "Demonstration" means a public display of group opinion as by a rally or march, the principal purpose of which is expressive activity.
- (2) "Event organizer" means any person who conducts, manages, promotes, organizes, aids, or solicits attendance at a special event.
- (3) "Event management company" means an entity with expertise in managing special events.
- (4) "Expressive activity" includes conduct for which the sole or principal object is expression, dissemination, or communication by verbal, visual, literary, or auditory means of political or religious opinion, views, or ideas and for which no fee or donation is charged or required as a condition of participation in or attendance at such activity. For purposes of this chapter, expressive activity does not include sports events, including marathons, fundraising events, or events the principal purpose of which is entertainment.
- (5) "Gross revenues" means the sum of all revenues received by an event organizer for a special event including, but not limited to, cash receipts, licensing, sponsorships, television, advertising and similar revenues, and concessions.
- (6) "March" means an organized walk or event whose principal purpose is expressive activity in service of a public cause.

(7) "Noncommercial special event" means any special event organized and conducted by a person or entity that qualifies as a tax-exempt nonprofit organization, or a special event whose principal purpose is expressive activity.

(8) "Rally" means a gathering whose principal purpose is expressive activity, especially one intended to inspire enthusiasm for a cause.

(9) "Sidewalk" means that portion of a right-of-way, other than the roadway, set apart by curbs, barriers, markings, or other delineation for pedestrian travel.

(10) "Sign" means any sign, pennant, flag, banner, inflatable display, or other attention-seeking device.

(11) "Special event" means any fair, show, parade, run/walk, festival, or other publicly attended entertainment or celebration which is to be held in whole or in part upon publicly owned property or public rights-of-way, or if held wholly upon private property, will nevertheless affect or impact the ordinary and normal use by the general public or public rights-of-way within the vicinity of such event.

(12) "Special event permit" means a permit issued under this chapter.

(13) "Special permit venue" means that area for which a special event permit has been issued.

(14) "Street" means any place that is publicly maintained and open to use of the public for purposes of vehicular traffic, including highways.

(15) "Tax-exempt nonprofit organization" means an organization that is exempted from payment of income taxes by federal or state law and has been in existence for a minimum of six months preceding the date of application for a special event permit.

(16) "Vendor" means any person who sells or offers to sell any goods, food, or beverages within a special event venue. (Ord. 2901 § 1, 2012).

#### **5.46.020 Special event permit required.**

---

Except as provided elsewhere in this chapter, any person or entity who conducts, promotes, or manages a special event shall first obtain a special event permit from the city of Marysville. (Ord. 2901 § 1, 2012).

#### **5.46.025 Exceptions to special event permit requirement.**

---

(1) Although not required to be issued a special event permit, an event organizer of an activity exempted from this chapter is required to comply with all local, state and federal laws and regulations governing public safety or health.

(2) The following activities are exempt from obtaining a special event permit:

(a) Parades, athletic events or other special events that occur exclusively on city property and are sponsored or conducted in full by the city of Marysville. An internal review process will be conducted for these events;



- (b) Private events held entirely on private property that do not involve the use of or have an impact on public property or facilities and that do not require the provision of city public safety services;
- (c) Funeral and wedding processions on private properties;
- (d) Groups required by law to be so assembled;
- (e) Gatherings of 100 or fewer people in a city park, unless merchandise or services are offered for sale or trade to the public, in which case a special event permit is required;
- (f) Temporary sales conducted by businesses, such as holiday sales, grand opening sales, anniversary sales, or single event (one day only) concession stands;
- (g) Garage sales, rummage sales, lemonade stands, and car washes;
- (h) Activities conducted by a governmental agency acting within the scope of its authority;
- (i) Lawful picketing on sidewalks;
- (j) Block parties located entirely on private property when not requesting a street closure, and not inviting others from outside the neighborhood;
- (k) Annual Strawberry Festival which is governed by Chapter 5.48 MMC; and
- (l) Other similar events and activities which do not directly affect or use city services or property. (Ord. 2901 § 1, 2012).

#### **5.46.030 Permit application.**

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- (1) An application for a special event permit can be obtained at the office of the community development director and will be completed and submitted to the community development director and/or designee no later than 60 days prior to the proposed event. A completed application does not constitute approval of the permit.
- (2) A waiver of application deadline shall be granted upon a showing of good cause or at the discretion of the community development director and/or designee. The community development director and/or designee shall consider an application that is filed after the filing deadline if there is sufficient time to process and investigate the application and obtain police and other city services for the event. Good cause can be demonstrated by the applicant showing that the circumstances that gave rise to the permit application did not reasonably allow the participants to file within the time prescribed, and that the event is for the purpose of expressive activity.
- (3) The following information shall be provided on the special event permit application:
  - (a) The name, address, fax, cell, day of event contact number, email address, and office telephone number of the applicant;
  - (b) A certification that the applicant will be financially responsible for any city fees or costs that may be imposed for the special event;

(c) The name, address, fax, cell, email address and telephone number of the event organizer, if any, and the chief officer of the event organizer, if any;

(d) A list of emergency contacts that will be in effect during the event, and the event web address, if any; and

(e) If the special event is designed to be held by, on behalf of, or for any organization other than the applicant, the applicant for special event permit shall file a signed, written communication from such organization:

(i) Authorizing the applicant to apply for the special event permit on its behalf;

(ii) Certifying that the applicant will be financially responsible for any costs or fees that may be imposed for the special event; and

(iii) Attached to which shall be a copy of the tax exemption letter issued for any applicant claiming to be a tax-exempt nonprofit organization;

(f) All permit applications shall include:

(i) A statement of the purpose of the special event;

(ii) A statement of fees to be charged for the special event, including admissions tax documentation;

(iii) The proposed location of the special event;

(iv) Dates and times when the special event is to be conducted;

(v) The approximate times when assembly for, and disbanding of, the special event is to take place;

(vi) The proposed locations of the assembly or production area;

(vii) The specific proposed site or route, including a map and written narrative of the route;

(viii) The proposed site of any reviewing stands and/or vending areas;

(ix) The proposed site for any disbanding area;

(x) Proposed alternative routes, sites or times, where applicable;

(xi) The approximate number of persons, animals, and vehicles that will constitute the special event;

(xii) The kinds of animals anticipated to be part of the special event;

(xiii) A description of the types of vehicles to be used in the special event;

(xiv) The number of bands or other musical units and the nature of any equipment to be used to produce sounds or noise;

- (xv) The number and location of potable sanitation facilities;
- (xvi) Other equipment or services necessary to conduct the special event with due regard for participant and public health and safety;
- (xvii) The number of persons proposed or required to monitor or facilitate the special event and provide spectator or participant control and direction for special events using city streets, sidewalks, or facilities, including use of public or private law enforcement personnel;
- (xviii) Provisions for first aid or emergency medical services, or both, based on special event risk factors;
- (xix) Insurance and surety bond information;
- (xx) Any special or unusual requirements that may be imposed or created by virtue of the proposed special event activity;
- (xxi) The marketing plan with proposed timelines associated with marketing the activity to the general public;
- (xxii) Event timeline documenting activities from event set-up to event tear-down;
- (xxiii) Parking areas;
- (xxiv) Identify city assistance being requested; and
- (xxv) Any other information required by the city. (Ord. 2901 § 1, 2012).

#### **5.46.040 Approval.**

Based on the type of event and the event to which city services will be required, approval of special event permit applications will be made by the following authorities:

- (1) Approval by City Staff. Administrative approval for one-day events contained on a single site that could involve special parking arrangements and hiring of police officers for crowd control and traffic control. City staff shall include a representative from the police, planning, public works, parks and recreation, fire, streets, sanitation, and community development director departments.
- (2) Approval by City Council. Multiple-day events (four days maximum) or any event involving street closures or impacts to services city-wide. Events lasting more than four days shall be subject to submittal of additional information as required by city staff.
- (3) The city council will be notified of all special event approvals made by the city staff.
- (4) If permits and/or coordination is required from other agencies, i.e., Community Transit, Department of Transportation, Snohomish Health District, etc., these must be submitted prior to the issuance of the permit. (Ord. 2901 § 1, 2012).

#### **5.46.050 Fees.**

There will be a \$100.00 nonrefundable application fee for a special event permit. (Ord. 2901 § 1, 2012).

#### **5.46.060 Departmental analysis.**

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- (1) The community development director or designee will send copies of special event permit applications to all pertinent city departments and/or outside agencies when deemed necessary for review and determination of services required.
- (2) The applicant is required to contract with the Marysville police department and public works department to employ police officers for security and traffic control as determined by the departmental analysis.
- (3) Cost of city services, i.e., police, public works employees, etc., for special events will be estimated prior to the event. Additional costs incurred will be evaluated following the completion of the event. The city may in its discretion require a cash deposit for such costs. (Ord. 2901 § 1, 2012).

#### **5.46.070 Insurance required.**

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Except as otherwise provided in this chapter, the applicant is required to obtain and present evidence of comprehensive liability insurance naming the city of Marysville, its officials, officers, employees and agents as additional insured for use of streets, public rights-of-way and publicly owned property such as parks. The insurance policy shall be written on an occurrence basis and shall provide a minimum coverage of \$1,000,000 for individual incidents, \$2,000,000 aggregate, per event, against all claims arising from permits issued pursuant to this chapter. The insurance policy period shall be for a period not less than 24 hours prior to the event and extending for a period of not less than 24 hours following completion of the event. In circumstances presenting a significantly high risk of liability the city may, in its discretion, increase the minimum insurance requirements, and in circumstances presenting a significantly low risk of liability, the city may in its discretion reduce the minimum insurance requirements. (Ord. 2901 § 1, 2012).

#### **5.46.080 Denial of permit.**

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Reasons for denial of a special event permit include, but are not limited to:

- (1) The event will disrupt traffic within the city of Marysville beyond practical solution;
- (2) The event will protrude into the public space open to vehicle or pedestrian travel in such a manner as to create a likelihood of endangering the public;
- (3) The event will interfere with access to emergency services;
- (4) The location or time of the special event will cause undue hardship or excessive noise levels to adjacent businesses or residents;
- (5) The event will require the diversion of so many city employees that it would unreasonably affect other city services;
- (6) The application contains incomplete or false information;

- (7) The applicant fails to provide proof of insurance;
- (8) The applicant fails to obtain a city business license and/or fails to pay the special event permit fee and/or the applicant has failed to pay all fees due from previous special events;
- (9) The applicant failed to provide proof of sufficient monitors for crowd control and safety at least one week prior to the event;
- (10) The applicant has failed to provide proof of sufficient on- or off-site parking or shuttle services, or both, when required, to minimize any substantial adverse impacts on general parking and traffic circulation in the vicinity of the special event;
- (11) The applicant has failed to conduct a previously authorized or exempted special event in accordance with law and/or the terms of a permit;
- (12) The special event application conflicts with permits issued on same date and location creating hardship or financial burden to already permitted events;
- (13) The applicant does not meet current zoning requirements;
- (14) The applicant fails to obtain local, county, state and federal permits as required;
- (15) The city reasonably determines that the proposed special event conflicts with an already approved special event scheduled for same date(s). (Ord. 2901 § 1, 2012).

#### **5.46.090 Appeal.**

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The applicant has the right to appeal any denial or revocation of a special events permit to the city council. An appeal shall be made in writing, shall specify the grounds of the appeal, shall have supporting documentation attached, and it shall be filed with the community development director within seven calendar days of the date of the written denial or revocation. (Ord. 2901 § 1, 2012).

#### **5.46.100 Sanitation.**

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(1) A special event permit may be issued only after adequate waste disposal facilities have been identified and obtained by the applicant. The permittee is required to clean all permitted public and private properties and the right-of-way of rubbish and debris, returning it to its pre-event condition. If the permittee fails to clean up such refuse, the cleanup will be arranged by the city and the costs charged to the permittee.

(2) A special event permit may be issued only after adequate restroom and washroom facilities have been identified and arranged for or obtained by the applicant subject to the Snohomish Health District's review and certification process. (Ord. 2901 § 1, 2012).

#### **5.46.110 Revocation of special event permit.**

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(1) Any special event permit issued pursuant to this chapter is subject to revocation, pursuant to this section.

(2) A special event permit may be revoked if the city determines:

- (a) That the special event cannot be conducted without violating the provisions of this chapter and/or conditions for the special event permit issuance;
- (b) The special event is being conducted in violation of the provisions of this chapter and/or any condition of the special event permit;
- (c) The special event poses a threat to health or safety;
- (d) The event organizer or any person associated with the special event has failed to obtain any other permit required pursuant to the provisions of this chapter;
- (e) The special event permit was issued in error or contrary to law;
- (f) The applicant has not paid all fees when due; or
- (g) The applicant has failed to provide confirmation or proof that it has obtained the minimum number of required volunteers to perform safety functions.

(3) Except as provided in this section, notices of revocation shall be in writing and specifically set forth the reasons for the revocation.

(4) If there is an emergency requiring immediate revocation of a special event permit, the city may notify the permit holder verbally of the revocation. (Ord. 2901 § 1, 2012).

#### **5.46.120 Cost recovery for unlawful special event.**

Whenever a special event is conducted without a special event permit when one is required or is conducted in violation of the terms of an issued special event permit, the event organizer shall be responsible for, and the city shall charge the event organizer for, all costs incurred as a result of the adverse impacts of the special event or the violation of the special event permit. (Ord. 2901 § 1, 2012).

#### **5.46.130 Expressive activity special event.**

When a special event permit is sought for an expressive activity such as a demonstration, rally, or march as defined in this chapter, the following exceptions shall apply:

- (1) Where the special event will not require temporary street closures, cost recovery pursuant to MMC 5.46.050 shall be limited solely to a fee based on the cost of processing the permit application.
- (2) The insurance requirement of MMC 5.46.070 shall be waived; provided, that the event organizer has filed with the application a verified statement that he or she intends the special event purpose to be First Amendment expression and the cost of obtaining insurance is financially burdensome and would constitute an unreasonable burden on the right of First Amendment expression. The verified statement shall include the name and address of one insurance broker or other source for insurance coverage contacted to determine premium rates for coverage.
- (3) Where the special event will require temporary street closures and any one or more of the conditions of subsection (4) of this section are present requiring the city to provide services in the interest of public health, safety, and welfare, the special event coordinator may condition the issuance

of the special event permit upon payment of actual, direct costs incurred by the city to a maximum of \$500.00. Any fee schedule adopted by the city shall contain a provision for waiver of, or a sliding scale for payment of, fees for city services, including police costs, on the basis of ability to pay.

(4) The city may deny a special event permit for a demonstration, rally or march if:

- (a) The special event will substantially interrupt public transportation or other vehicular and pedestrian traffic in the area of its route;
- (b) The special event will cause an irresolvable conflict with construction or development in the public right-of-way or at a public facility;
- (c) The special event will block traffic lanes or close streets during peak commuter hours on weekdays between 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. on streets designated as arterials by the city's public works department.
- (d) The special event will require the diversion of police employees from their normal duties;
- (e) The concentration of persons, animals, or vehicles will unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets;
- (f) The special event will substantially interfere with another special event for which a permit has already been granted or with the provision of city services in support of other scheduled special events; or
- (g) The special event will have significant adverse impact upon residential or business access and traffic circulation in the same general venue.

(5) With regard to the permitting of expressive activity special events where the provisions of this section conflict with the provisions in any other section of this chapter, the provisions of this section shall prevail. (Ord. 2901 § 1, 2012).

#### **5.46.140 Penalties for violation.**

- (1) Violations of, or failure to comply with, any provision of this chapter shall constitute a civil infraction and any person found to have violated any provision of this chapter is punishable by a monetary penalty of not more than \$250.00 for each such violation. Each day that a violation continues shall constitute a new and separate infraction.
- (2) The imposition of a penalty for violation of this chapter shall be in addition to any other penalties provided for in any other ordinances of the city or any other ordinances or laws applicable to the violation.
- (3) Any permit fee or penalty which is delinquent or unpaid shall constitute a debt to the city and may be collected by a court proceeding in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies. (Ord. 2901 § 1, 2012).





# *Index #7*

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: March 6, 2017**

AGENDA ITEM: Agreement Extension with Paymentus Corporation	
PREPARED BY: John Nield, Financial Operations Manager	DIRECTOR APPROVAL:
DEPARTMENT: Utility Billing	
ATTACHMENTS:	
BUDGET CODE: 00143523.541000 100%	AMOUNT: 16,500

**SUMMARY:**

Staff is requesting authorization of a one-month extension to the Paymentus Corporation agreement. This extension would go through March 31, 2017.

This extension is necessary as final contractual language is being drafted for Gravity Payments and Valli Information Systems subsidiary Billing Documents Specialist.

The one-month extension will be sufficient to conclude the contracts and signing of the documents and finish the implementation of BDS' online and IVR services.

There is no additional cost as this one month service period is for online services, which would be payable to Paymentus Corp and not to Billing Documents Specialist as originally planned.

<p><b>RECOMMENDED ACTION:</b> Staff recommends that Council Authorize the Mayor to sign the Agreement extension between the City of Marysville and Paymentus Corporation.</p>
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## AMENDING AGREEMENT

Customer:	City of Marysville (WA)
Customer Address:	1049 State Avenue Marysville, WA 98270
Contact for Notices to Customer:	John Nield, Financial Operations Manager

This Amending Agreement is entered into as of the effective date below, by and between City of Marysville (WA) ("Customer") identified above and **Paymentus Corporation**, a Delaware Corporation ("Paymentus").

### WHEREAS:

A – The parties entered in a Master Service Agreement on February 25, 2013

B – The parties now wish to amend Section 9.1 "Term" of the Master Service Agreement to extend the "Initial Term" through March 31, 2017.

**NOW, THEREFORE**, in consideration of the mutual covenants hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby covenant and agree as follows:

The initial term shall be extended through March 31, 2017.

Except the Section 9.1 "Term", as amended with this Amending Agreement, all provisions of the Agreement remain in full force and effect, un-amended.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their duly authorized representatives

### Customer:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

### Paymentus:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

# *Index #8*

EXECUTIVE SUMMARY FOR ACTION

**CITY COUNCIL MEETING DATE: March 6, 2017**

AGENDA ITEM: Agreement with Gravity Payments and Wells Fargo Bank N.A.	
PREPARED BY: John Nield, Financial Operations Manager	DIRECTOR APPROVAL:
DEPARTMENT: Utility Billing	
ATTACHMENTS: Merchant Application, Program Terms and Conditions, Gravity Waiver	
BUDGET CODE: 00143523.541000 100%	AMOUNT: 120,000 estimated annually, 600,000 life of contract

SUMMARY:

Staff is requesting authorization to enter into a Sixty Month Agreement with Gravity Payments and Wells Fargo for Merchant Services. Gravity Payments and Wells Fargo will process Customer Payment Services for the City of Marysville Utility Customers.

The City did a Request for Proposal in which 13 providers were contacted who provided online bill presentation and may offer payment services.

Of the 13 providers, the City received 5 responses to the RFP in which companies submitted proposals.


Valli Information Systems (subsidiary Billing Documents Specialist) submitted a proposal with Gravity Payments and Wells Fargo. Billing Documents Specialist will provide customers the ability to view their bills online, create an account to pay their bill and offers a variety of payment options. BDS will coordinate with Gravity Payments, based in Seattle, Washington, and Wells Fargo to act as the payment processor of online and phone payments. Gravity will be paid directly for the merchant service charges for processing the online and phone payments. BDS will be paid for the notifications, bill printing online and the per charge fee for payments made online or over the phone.

Gravity Payments provides processing services for the City of Bonney Lake, Wa, City of Mountlake Terrace and City of Puyallup.

Several provisions of Gravity Payment’s standard agreement were not well suited for the City as a government entity. Gravity Payments has agreed to forego several of its rights under Program Terms and Conditions as indicated in the included Waiver of Rights.

Based on estimated Activity Annualized, the yearly cost of using Gravity Payments is estimated at \$120,000.00.

<p><b>RECOMMENDED ACTION:</b> Staff recommends that Council Authorize the Mayor to accept Gravity Payments’ waiver of rights and sign the Agreement between the City of Marysville, Gravity Payments, and Wells Fargo Bank N.A.</p> <p style="text-align: right;">Item 8 - 1</p>
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Merchant Application				
		Merchant # <b>517924500224746</b> New Location <input type="checkbox"/> Additional Location <input type="checkbox"/> <b>1455 NW Leary Way • Suite 200 • Seattle, WA 98107</b> Tel: 866.701.4700 • Fax: 206.428.7102 www.gravitypayments.com		
		▶ Business Information		
Business Name (DBA): <b>City of Marysville, WA</b>				
Physical Street Address (No P.O. Box): <b>1049 State Ave</b>		Mailing Address	City: <b>Marysville</b>	State: Zip: <b>WA 98270</b>
Customer Service Phone #: <b>360-363-8000</b>		Customer Service Email: <b>finance@marysvillewa.gov</b>		Website: <b>www.http://marysvillewa.gov/</b>
Legal Business Name (As it appears on your income tax return): <b>City of Marysville</b>				
Legal Address: <input type="checkbox"/> Check here if same as DBA <b>1049 State Ave</b>		Mailing Address	City: <b>Marysville</b>	State: Zip: <b>WA 98270</b>
Phone #: <b>360-363-8042</b>		Contact: <b>Sandy Langdon</b>		
Federal Tax ID # (As it appears on your income tax return): <b>916001459</b>		Years in business: <b>100</b>	<input type="checkbox"/> I certify that I am a foreign entity/nonresident alien. <small>(If checked, please attach IRS Form W-8)</small>	
Note: Failure to provide accurate information may result in a withholding of merchant funding per IRS regulations (see Part IV, Section A.4 of your Program Guide for more information)				
▶ Owners or Officers - Individual Ownership Must be Equal to or Greater than 50%				
Primary Owner/Officer: <b>Sandy Langdon</b>		Title: <b>Treasurer</b>	Date of Birth: <b>1/1/1980</b>	Applicant's SSN #: % Equity Ownership: <b>916-00-1459 100</b>
Residence Address: <b>1049 State Ave</b>		City: <b>Marysville</b>	State: Zip: <b>WA 98270</b>	Home Phone #: <b>360-363-8042</b>
Secondary Owner/Officer:		Title:	Date of Birth:	Applicant's SSN #: % Equity Ownership:
Residence Address:		City:	State: Zip:	Home Phone #:
Gravity Payments does not disclose any personal or financial information supplied on this merchant application to our associates or to any third parties.				
▶ Authorized Users				
I/We authorize the individuals below to act on our behalf as it relates to our account with Gravity Payments. This includes but is not limited to signing off on changes to our account, such as address, bank account, and DBA, accessing transactional information on our account, as well as extending and/or entering into new agreements with Gravity Payments.				
I authorize the following users to sign on my behalf:				
User #1:	<b>sandy</b>	User #2:		
x		x		
▶ Automated Clearing House (Bank Deposit Information)				
Merchant authorizes Gravity Payments, Payment Processing Partners, Inc., or Bank to present Automated Clearing House credits, Automated Clearing House debits, wire transfers, or depository transfer checks to and from the following account and to and from any other account for which Gravity Payments or Bank are authorized to perform such functions under the Merchant Processing Agreement, for the purposes set forth in said Agreement. This authorization extends to such entries in said account concerning lease, rental or purchase agreements for POS terminals and/or accompanying equipment and/or check guarantee fees and amounts due for supplies and materials. This Automated Clearing House authorization cannot be revoked until all Merchant obligations under this Agreement are satisfied, and Merchant gives Gravity Payments written notice of revocation.				
Checking Account Number: <b>000063284202</b>		Bank Routing Number (9 digits): <b>125000024</b>		
▶ Business Profile			▶ Sales Profile	
TYPE OF OWNERSHIP: <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Corporation (Public) <input type="checkbox"/> Corporation (Private) <input type="checkbox"/> Tax Exempt Org <input type="checkbox"/> Medical or Legal Corp <input type="checkbox"/> Single Member LLC <input type="checkbox"/> Multi Member LLC <input checked="" type="checkbox"/> Other <u>Government</u>			Card Volume Sales Profile (Be Accurate):	
AVG MONTHLY CARD VOLUME: <b>848937.00</b>		AVG TICKET: <b>214.27</b>	SALES VOLUME: \$ <b>10187244.00</b>	
Do you currently accept credit cards? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Current Processor Name:	Reason for leaving:	
Type of Goods or Services Sold (be specific): <b>Utility billing</b>			Seasonal: <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	
▶ Merchant Site Inspection - For Office Use Only			Internet <b>90 %</b>	
I hereby verify that this application has been fully completed by merchant applicant and that I have physically inspected the merchant at this address and the information stated above is true and correct to the best of my knowledge and belief.				
Gravity Representative:			Date:	
Total =		<b>100 %</b>		

<b>Industry</b>	<b>Pricing Structure</b>	<b>Card Acceptance</b>	<i>(see section 1.9 of program guide)</i>
<input type="checkbox"/> Standard Retail & Restaurant	<input checked="" type="checkbox"/> Interchange & Association Fees Pass Through <sup>1</sup>	<input type="checkbox"/> MC Credit Trans <i>only</i>	<input type="checkbox"/> MC Non-PIN Debit Trans <i>only</i>
<input checked="" type="checkbox"/> MOTO/Key Entry	<input type="checkbox"/> Tiered <sup>2</sup>	<input type="checkbox"/> VS Credit Trans <i>only</i>	<input type="checkbox"/> VS Non-PIN Debit Trans <i>only</i>
<input type="checkbox"/> E-Commerce	<input type="checkbox"/> Flat Rate <sup>3</sup>	<input type="checkbox"/> DSC Credit Trans <i>only</i>	<input type="checkbox"/> DSC Non-PIN Debit Trans <i>only</i>
		<input type="checkbox"/> American Express OptBlue® <i>only</i>	<input type="checkbox"/> DSC/PayPal Trans <i>only</i>

VS/MC/DSC/PayPal Discount Rate: 0.150 % VS/MC/DSC/PayPal Signature Debit Rate: 0.150 % American Express OptBlue® Discount Rate: \_\_\_\_\_ %

VS/MC/DSC/PayPal Mid-Qualified Rate: \_\_\_\_\_ % VS/MC/DSC/PayPal Non-Qualified Rate: \_\_\_\_\_ % Pin Debit Discount Rate: \_\_\_\_\_ %

<table style="width:100%;"> <tr><td>VS/MC/DSC Transaction Fee</td><td style="text-align: right;"><u>0.1000</u></td><td>Per Auth</td></tr> <tr><td>American Express OptBlue® Transaction Fee*</td><td style="text-align: right;"><u>0.0000</u></td><td>Per Auth</td></tr> <tr><td>Monthly Minimum:</td><td style="text-align: right;"><u>0.00</u></td><td>Monthly</td></tr> <tr><td>Statement / Service Fee</td><td style="text-align: right;"><u>0.00</u></td><td>Monthly</td></tr> <tr><td>Batch Fee</td><td style="text-align: right;"><u>0.00</u></td><td>Per Batch</td></tr> <tr><td>Debit Transaction Fee Plus Network</td><td style="text-align: right;"><u>0.0000</u></td><td>Per Auth</td></tr> <tr><td>EBT Transaction Fee</td><td style="text-align: right;"><u>0.0000</u></td><td>Per Auth</td></tr> <tr><td>Non-Bankcard Transaction Fee</td><td style="text-align: right;">_____</td><td>Per Auth</td></tr> <tr><td colspan="3"><small>(Includes American exp Direct, Voyager, and Wex)</small></td></tr> <tr><td>Voyager Discount Rate</td><td style="text-align: right;">_____</td><td>%</td></tr> <tr><td>Annual Fee</td><td style="text-align: right;">_____</td><td>Per Year</td></tr> <tr><td>Address Verification Service Fee</td><td style="text-align: right;"><u>0.0000</u></td><td>Per Item</td></tr> <tr><td>Voice Auth Fee</td><td style="text-align: right;"><u>0.9500</u></td><td>Per Item</td></tr> <tr><td>Chargeback/ACH Reject Fee</td><td style="text-align: right;"><u>25.00</u></td><td>Per Item</td></tr> <tr><td>Retrieval Fee</td><td style="text-align: right;"><u>5.00</u></td><td>Per Item</td></tr> <tr><td>TransArmor Tokenization</td><td style="text-align: right;">_____</td><td>Monthly</td></tr> <tr><td>Early Termination Fee</td><td style="text-align: right;"><b>495.00</b></td><td></td></tr> <tr><td>Other Fees (Please Specify)</td><td style="text-align: right;">_____</td><td></td></tr> </table>	VS/MC/DSC Transaction Fee	<u>0.1000</u>	Per Auth	American Express OptBlue® Transaction Fee*	<u>0.0000</u>	Per Auth	Monthly Minimum:	<u>0.00</u>	Monthly	Statement / Service Fee	<u>0.00</u>	Monthly	Batch Fee	<u>0.00</u>	Per Batch	Debit Transaction Fee Plus Network	<u>0.0000</u>	Per Auth	EBT Transaction Fee	<u>0.0000</u>	Per Auth	Non-Bankcard Transaction Fee	_____	Per Auth	<small>(Includes American exp Direct, Voyager, and Wex)</small>			Voyager Discount Rate	_____	%	Annual Fee	_____	Per Year	Address Verification Service Fee	<u>0.0000</u>	Per Item	Voice Auth Fee	<u>0.9500</u>	Per Item	Chargeback/ACH Reject Fee	<u>25.00</u>	Per Item	Retrieval Fee	<u>5.00</u>	Per Item	TransArmor Tokenization	_____	Monthly	Early Termination Fee	<b>495.00</b>		Other Fees (Please Specify)	_____		<p style="text-align: center;"><b>Optional Merchant Fees &amp; Gateway Information:</b></p> <p>Gateway (e.g. Authorize.net, USA ePay) <u>NMI Gateway</u></p> <p>Is this an existing gateway to be reprogrammed? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Retail Swiper <input type="checkbox"/> MO/TO Virtual Terminal <input type="checkbox"/> e-Commerce Shopping Cart</p> <p style="text-align: center;"><b>Gateway Fees</b></p> <p>Activation Fee: _____ Upon Setup</p> <p>Transaction Fee: _____ Per Item</p> <p>Monthly Gateway Fee: _____ Monthly</p> <p>Recurring Billing Monthly Fee: _____ Monthly</p> <p>Annual Fee: _____ Per Year</p> <p>Email address to receive gateway activation (required; please print legibly): <u>pazbill@valli.com</u></p> <p style="text-align: center;"><b>Wireless Fees</b></p> <p>Activation Fee: _____ Upon Setup</p> <p>Per Item Fee: _____ Per Item</p> <p>Monthly Access Fee: _____ Monthly</p> <p>Seasonal Re-Activation Fee (if deactivated within 12 months) _____ Per Terminal</p>
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I/We understand and agree to the following: 1) Pass through fees include all Interchange and Card Association Fees. Card Association Fees include: Dues and Assessments, Visa FANF, Visa Misuse of Auth Fee, Visa ACQ Processing Fee, Visa Zero Floor Limit Fee, Visa Int'l ACQ Fee, Visa ACQ ISA Fee, Visa Trans Integrity Fee, Visa File Transmission Fee, Visa Acquirer Credit Voucher Data Processing Fee, Visa AFD Non Participation Fee, MC ACQ Support Fee, MC Cross Border Fee, MC NABU Fee, MC Proc Integrity Fee, MC Kilobyte Fee, MC CVC2 Fee, MC ICA AVS Fee, MC Digital Enablement Fee, MC Business to Business, MasterCard Location Fee, Discover Int'l Proc Fee, Discover Int'l Service Fee, Discover Data Usage Fee, Discover Network Auth Fee, American Express OptBlue® Network Fee, American Express OptBlue® Non-swiped Transaction Fee, American Express OptBlue® Inbound Fee, American Express OptBlue® Technical Specifications Non-Compliance Fee, PayPal Participation Auth Fee. 2) The qualified rate as stated above will be charged electronically authorized payment card transactions that are in batches closed daily. All payment card transactions may be charged higher than the listed qualified rate (mid- or non-qualified rate). Card Association Fees, excluding Dues and Assessments, are passed through. 3) Interchange and Card Association Fees are encompassed in the Flat Rate, unless otherwise disclosed. \*If no American Express OptBlue® Discount or Transaction Fee is listed, rates will default to a flat discount rate of 3.5% and a Transaction fee of \$0.10.

**IMPORTANT NOTICE:** All information contained in this application was completed, supplied, and/or reviewed by the undersigned Merchant. Gravity Payments shall not be responsible for any change in printed terms unless specifically agreed to in writing by an officer of Gravity Payments and/or Wells Fargo Bank. By signing below you are agreeing to the provisions stated within this merchant application on the reverse side (the Merchant Agreement) and acknowledge receipt of the Merchant Program Guide. These provisions must be read before signing. By signing below, you agree to the terms on the first and second page of this MERCHANT Processing Agreement and the Merchant Program Guide. You further acknowledge and agree that you will not use your merchant account and/or the Services for illegal transactions, for example, those prohibited by the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. Section 5361 et seq, as may be amended from time to time, or processing and acceptance of transactions in certain jurisdictions pursuant to 31 CFR Part 500 et seq, and other laws enforced by the Office of Foreign Assets Control (OFAC). Client certifies, under penalties of perjury, that the federal taxpayer identification number and corresponding filing name provided herein are correct. Client acknowledges and agrees that we, our Affiliates and our third party subcontractors and/or agents may use automatic telephone dialing systems to contact Client at the telephone number(s) Client has provided in this Merchant Processing Application and/or may leave a detailed voice message in the event that Client is unable to be reached, even if the number provided is a cellular or wireless number or if Client has previously registered on a Do Not Call list or requested not to be contacted Client for solicitation purposes. Client hereby consents to receiving commercial electronic mail messages from us, our Affiliates and our third party subcontractors and/or agents from time to time.

<p><b>► Individual Guaranty</b></p> <p>Personal Guaranty: In exchange for Gravity Payments, Wells Fargo Bank, N.A. (the Guaranteed Parties) acceptance of, as applicable, the Agreement, the undersigned unconditionally and irrevocably guarantees the full payment and performance of Client's obligations under the foregoing agreements, as applicable, as they now exist or as modified from time to time, whether before or after termination or expiration of such agreements and whether or not the undersigned has received notice of any amendment of such agreements. The undersigned waives notice of default by Client and agrees to indemnify the Guaranteed Parties for any and all amounts due from Client under the foregoing agreements. The Guaranteed Parties shall not be required to first proceed against Client to enforce any remedy before proceeding against the undersigned. This is a continuing personal guaranty and shall not be discharged or affected for any reason. The undersigned understands that this is a Personal Guaranty of payment and not of collection and that the Guaranteed Parties are relying upon this Personal Guaranty in entering into the foregoing agreements, as applicable.</p> <p><b>AGREED AND ACCEPTED:</b></p> <p>Primary Owner/Officer—Signature: <b>X</b> _____ Date: _____</p> <p>Secondary Owner/Officer—Signature: <b>X</b> _____ Date: _____</p>	<p><b>► For All Businesses - Business Resolution</b></p> <p>The indicated officer(s) identified as Primary and Secondary below have the authorization to execute the MERCHANT Processing Agreement on behalf of the here within named business. <b>THE UNDERSIGNED, "MERCHANT", UNDERSTANDS THAT THIS AGREEMENT SHALL NOT TAKE EFFECT UNTIL SAID MERCHANT HAS BEEN APPROVED BY BANK AND A MERCHANT NUMBER IS ISSUED.</b></p> <p>Print Legal Name of Business: <u>City of Marysville</u></p> <p>Primary Owner/Officer—Signature: _____ Date: _____ <b>X</b> _____ Title: _____</p> <p>Secondary Owner/Office—Signature: _____ Date: _____ <b>X</b> _____ Title: _____</p> <p>Accepted by Processor _____ Date: _____ _____ Title: _____</p> <p>Accepted by Wells Fargo Bank, N.A. _____ Date: _____ _____ Title: _____</p>
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**PROCESSOR INFORMATION:** Name: Gravity Payments, Inc.  
 Address: 1455 NW Leary Way, Suite 200, Seattle, WA 98107  
 URL: www.GravityPayments.com Customer Service #: 1-866-701-4700

Please read the Program Guide in its entirety. It describes the terms under which we will provide merchant processing Services to you.

From time to time you may have questions regarding the contents of your Agreement with Bank and/or Processor. The following information summarizes portions of your Agreement in order to assist you in answering some of the questions we are most commonly asked.

- Your Discount Rates are assessed** on transactions that qualify for certain reduced interchange rates imposed by MasterCard, Visa, Discover and PayPal. Any transactions that fail to qualify for these reduced rates will be charged an additional fee (see Section 25 of the Program Guide).
- We may debit your bank account** (also referred to as your Settlement Account) from time to time for amounts owed to us under the Agreement.
- There are many reasons why a Chargeback may occur.** When they occur we will debit your settlement funds or Settlement Account. For a more detailed discussion regarding Chargebacks see Section 14 of the Your Payments Acceptance Guide or see the applicable provisions of the TeleCheck Services Agreement.
- If you dispute any charge or funding,** you must notify us within 60 days of the date of the statement where the charge or funding appears for Card Processing.
- The Agreement limits our liability to you.** For a detailed description of the limitation of liability see Section 27, 37.3, and 39.10 of the Card General Terms.
- We have assumed certain risks** by agreeing to provide you with Card processing or check services. Accordingly, we may take certain actions to mitigate our risk, including termination of the Agreement, and/or hold monies otherwise payable to you (see Card Processing General Terms in Section 30, Term; Events of Default and Section 31, Reserve Account; Security Interest), under certain circumstances.
- By executing this Agreement with us** you are authorizing us and our Affiliates to obtain financial and credit information regarding your business and the signers and guarantors of the Agreement until all your obligations to us and our Affiliates are satisfied.
- The Agreement contains a provision** that in the event you terminate the Agreement prior to the expiration of your initial three (3) year term, you will be responsible for the payment of an early termination fee as set forth in Part IV, A.3 under "Additional Fee Information".

**9. Card Organization Disclosure**

**Visa and MasterCard Member Bank Information: Wells Fargo Bank N.A.**

The Bank's mailing address is 1200 Montego, Walnut Creek, CA 94598, and its phone number is (925) 746-4143.

**Important Member Bank Responsibilities:**

- The Bank is the only entity approved to extend acceptance of Visa and MasterCard products directly to a merchant.
- The Bank must be a principal (signer) to the Agreement.
- The Bank is responsible for educating merchants on pertinent Visa and MasterCard rules with which merchants must comply; but this information may be provided to you by Processor.
- The Bank is responsible for and must provide settlement funds to the merchant.
- The Bank is responsible for all funds held in reserve that are derived from settlement.
- The Bank is the ultimate authority should a merchant have any problems with Visa or MasterCard products (however, Processor also will assist you with any such problems).

**Important Merchant Responsibilities:**

- Ensure compliance with Cardholder data security and storage requirements.
- Maintain fraud and Chargebacks below Card Organization thresholds.
- Review and understand the terms of the Merchant Agreement.
- Comply with Card Organization Rules and applicable law and regulations.
- Retain a signed copy of this Disclosure Page.
- You may download "Visa Regulations" from Visa's website at: <https://usa.visa.com/support/merchant.html>.
- You may download "MasterCard Regulations" from MasterCard's website at: <http://www.mastercard.com/us/merchant/support/rules.html>.
- You may download "American Express Merchant Operating Guide" from American Express' website at: [www.americanexpress.com/merchantopguide](http://www.americanexpress.com/merchantopguide).

Click here for full program guide

Print Client's Business Legal Name: City of Marysville

By its signature below, Client acknowledges that it has received the Merchant Processing Application, Program Terms and Conditions [version GP1904(ia)] consisting of 43 pages [including this Confirmation Page and the applicable Third Party Agreement(s)].

Client further acknowledges reading and agreeing to all terms in the Program Terms and Conditions. Upon receipt of a signed facsimile or original of this Confirmation Page by us, Client's Application will be processed.

**NO ALTERATIONS OR STRIKE-OUTS TO THE PROGRAM TERMS AND CONDITIONS WILL BE ACCEPTED.**

**Client's Business Principal:**

**Signature** (Please sign below):

**X** \_\_\_\_\_  
 sandy Langdon

Please Print Name of Signer

Treasurer

Title

Date





## Mail, Telephone Order &amp; Internet Merchant Addendum

**INTERNET MERCHANTS—IMPORTANT NOTICE:** Visa and MasterCard have set a minimum standard requirement for accepting credit cards on the internet. In order to avoid a significant delay in the settlement of your funds, please ensure that your website has the following seven (7) items completed prior to the commencement of your credit card processing:

**\*\*Urgent! You must contact your sales representative immediately upon completing the below 7 internet requirements to avoid further funding delays.**

1. Refund/Cancellation Policy
2. Privacy Policy
3. Terms & Conditions listed
4. Products & the Corresponding Pricing listed
5. 128-bit SSL page(s) where personal and credit card information is obtained (usually provided by a shopping cart or gateway)
6. Telephone Customer Service contact number within a "Contact Us" section
7. Shipping & Handling method and shipping delivery time after the sale

**Underwriting & Marketing Review: (Please answer the following questions as accurately as possible)**

Submit sample(s) of product brochure, promotional materials, product catalogue, etc. How will product be advertised or promoted? (If advertising on the internet, provide website address) website http://marysvillewa.gov/

List name(s) and address(es) of vendor from which the product is purchased: \_\_\_\_\_  
None / Utility billing

What product(s) or service(s) does your organization provide the cardholder? *(please be specific)* \_\_\_\_\_  
Utility billing

How does the customer order the product/service? (please provide the process from customer order to shipment) \_\_\_\_\_  
NA

What is your return/refund/cancellation policy? NA

How long after credit card authorization is the transaction completed? NA

How long after the transaction is completed do you ship the goods or provide the service? NA

Does the customer sign a contract specifying terms and conditions? NO      If Yes, Please provide a copy of said contract

Do you perform recurring monthly billing? Yes      How often does billing recur? Monthly

Does your database collect entire credit card numbers? Yes      Are you PCI Compliant? Yes

This amendment is made by and between Wells Fargo Bank, N.A., Walnut Creek, CA ("BANK"), and the undersigned "MERCHANT" and subject to the approval of BANK.

**WHEREAS:** BANK is engaged in the general banking business including the purchase of Credit Card Transactions from merchants and provide certain services related to the processing of Credit Card Transactions to MERCHANT; and **WHEREAS:** MERCHANT desires to honor at this business location(s) Card Numbers presented in connection with the Mail Order/Telephone Order sale of product/services to customers; and

**WHEREAS:** BANK and MERCHANT has entered into Wells Fargo Bank, N.A., Walnut Creek, CA (BANK) VISA/MasterCard Processing Agreement ("Agreement").

**NOW THEREFORE,** in consideration of the representations, covenants, and promises made herein, the parties hereto agree to amend Agreement as follows:

1. MERCHANT agrees to use and retain proof of traceable delivery system as means of shipment of product to customer.
2. MERCHANT agrees that transactions will not be processed until products are shipped to Cardholder.
3. MERCHANT agrees to a charge of up to \$0.05 per AVS transaction(s) when/if applicable.
4. Agreement may be immediately terminated by BANK if MERCHANT fails to comply with any of the terms of the agreement.

AGREED & ACCEPTED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

Owner/Officer Signature

Authorized Signature Wells Fargo Bank, N.A.

Print Name

Print Name



Prepared By: Brad Hennessy  
 (366) 701-4700 ext:  
 8-Aug-16

## Consultative pricing review

Prepared especially for:  
 City of Marysville, WA

WE AT GRAVITY PAYMENTS ARE COMMITTED TO PROVIDING

### the best service

Serving you is our top priority. That's why our customers are with us over 5 TIMES LONGER than industry average.

### transparency

No hidden fees or surprises. We want you to understand every detail of your statement.

### simplicity

We can integrate quickly and seamlessly with your current point-of-sale system, or recommend new options.



### support

We are here when you need us. 24 hours a day. 7 Days a week.



Statement Fee	\$0.00
Chargeback Fee	\$25.00
Interchange and Fees	
Discount Rate	0.15%
Avg. Interchange	0.52%
Transaction Fee	\$0.10
Batch Fee	\$0.00

**Monthly Est. Cost: \$6,084.08**

*Projected fees are based on:*

Monthly V/MC volume of: \$848,937.00

Average ticket of: \$214.27

"We strive to provide as much value to customers as possible, while charging them as little as possible, and still survive as a business."

-Dan Price, CEO & Founder of Gravity Payments



[www.gravitypayments.com](http://www.gravitypayments.com)



Merchant  
Services

Program  
Terms and  
Conditions  
(Program Guide)

## PREFACE

Thank you for selecting us for your payment processing needs. Accepting numerous payment options provides a convenience to your customers, increases your customers' ability to make purchases at your establishment, and helps speed payment to your account.

Your Merchant Processing Application will indicate the types of payments and Services you have elected to accept. These Program Terms and Conditions (“**the Program Guide**”) presents terms governing the acceptance of Visa<sup>®</sup>, MasterCard<sup>®</sup>, and Discover<sup>®</sup> Network Credit Card and Non-PIN Debit Card payments, PayPal in-store Card payments, American Express<sup>®</sup> Card transactions and applicable Non-Bank Services.

**This Program Guide, your Merchant Processing Application and the schedules thereto (collectively, the “Agreement”), including, without limitation, the Interchange Qualification Matrix and American Express Program Pricing and one of the Interchange Schedules, as applicable to your pricing method as set forth in the Merchant Processing Application, contains the terms and conditions under which Processor and/or Bank and/or other third parties, will provide services. We will not accept any alterations or strike-outs to the Agreement and, if made, any such alterations or strike-outs shall not apply. Please read this Program Guide completely.**

You acknowledge that certain Services referenced in the Agreement may not be available to you.

### **IMPORTANT INFORMATION ABOUT BANK'S RESPONSIBILITIES:**

**Discover Network Card Transactions, PayPal in-store Card Transactions, American Express Card Transactions and other Non-Bank Services are not provided to you by Bank, but are provided by Processor and/or third parties.**

**The provisions of this Agreement regarding Discover Network Card Transactions, PayPal in-store Card Transactions, American Express Card Transactions and other Non-Bank Services constitute an agreement solely between you and Processor and/or third parties. Bank is not a party to this Agreement insofar as it relates to Discover Network Card Transactions, PayPal in-store Card Transactions, American Express Card Transactions and other Non-Bank Services, and Bank is not responsible, and shall have no liability, to you in any way with respect to Discover Network Card Transactions, PayPal in-store Card Transactions, American Express Card Transactions and Non-Bank Services.**

### **OTHER IMPORTANT INFORMATION:**

Cards present risks of loss and non-payment that are different than those with other payment systems. In deciding to accept Cards, you should be aware that you are also accepting these risks.

Visa U.S.A., Inc. (“**Visa**”) MasterCard Worldwide (“**MasterCard**”), DFS Services LLC (“**Discover Network**”), PayPal, Inc. (“**PayPal**”) and American Express Company, Inc. (“**American Express**”) are payment card networks that electronically exchange Sales Drafts and Chargebacks for Card sales and Credits. Sales Drafts are electronically transferred from banks (in the case of MasterCard and Visa transactions) or network acquirers (in the case of Discover Network and PayPal in-store Card transactions) that acquire them from merchants such as yourself through the appropriate Card Organization, to the Issuers. These Issuers then bill their Cardholders for the transactions. The Card Organizations charge the Acquirers interchange fees, pricing and/or assessments for submitting transactions into their systems. A substantial portion of the Discount Rate or Transaction Fees that you pay will go toward these interchange fees, pricing and assessments.

In order to speed up the payment process, the Issuer transfers the funds back through the Card Organization to the Acquirer at approximately the same time that the Issuer receives the electronic Sales Drafts. Even though the payments under this system are made simultaneously, all payments made through the Card Organizations are conditional and subject to reversals and adjustments.

Each Card Organization has developed Card Organization Rules that govern their Acquirers and Issuers and the procedures, responsibilities and allocation of risk for this process. Merchants are also bound by Card Organization Rules and applicable laws and regulations. The Card Organization Rules and applicable laws and regulations give Cardholders and Issuers certain rights to dispute transactions, long after payment has been made to the merchant, including Chargeback rights.

We do not decide what transactions are charged back and we do not control the ultimate resolution of the Chargeback. While we can attempt to reverse a Chargeback to the Issuer, we can only do so if the Issuer agrees to accept it or the Card Organization requires the Issuer to do so after a formal appeal process. Sometimes, your customer may be able to successfully charge back a Card transaction even though you have provided your goods or services and are otherwise legally entitled to payment from your customer. While you may still be able to pursue claims directly against that customer, neither we nor the Issuer will be responsible for such transactions.

You will be responsible for all Chargebacks and adjustments associated with the transactions that you submit for processing.

Please refer to the Glossary for certain capitalized terms used in the Agreement, including this Preface (if not defined above).

Capitalized terms not otherwise defined in the Agreement may be found in the Card Organization Rules.

**PROCESSOR INFORMATION:** Name: Gravity Payments, Inc.  
 Address: 1455 NW Leary Way, Suite 200, Seattle, WA 98107  
 URL: \_\_\_\_\_ Customer Service #: 1-866-701-4700

Please read the Program Guide in its entirety. It describes the terms under which we will provide merchant processing Services to you.

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4. **If you dispute any charge or funding,** you must notify us within 60 days of the date of the statement where the charge or funding appears for Card Processing.
5. **The Agreement limits our liability to you.** For a detailed description of the limitation of liability see Section 27, 37.3, and 39.10 of the Card General Terms.
6. **We have assumed certain risks** by agreeing to provide you with Card processing or check services. Accordingly, we may take certain actions to mitigate our risk, including termination of the Agreement, and/or hold monies otherwise payable to you (see Card Processing General Terms in Section 30, Term; Events of Default and Section 31, Reserve Account; Security Interest), under certain circumstances.
7. **By executing this Agreement with us** you are authorizing us and our Affiliates to obtain financial and credit information regarding your business and the signers and guarantors of the Agreement until all your obligations to us and our Affiliates are satisfied.
8. **The Agreement contains a provision** that in the event you terminate the Agreement prior to the expiration of your initial three (3) year term, you will be responsible for the payment of an early termination fee as set forth in Part IV, A.3 under "Additional Fee Information".

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##### Important Member Bank Responsibilities:

- a) The Bank is the only entity approved to extend acceptance of Visa and MasterCard products directly to a merchant.
- b) The Bank must be a principal (signer) to the Agreement.
- c) The Bank is responsible for educating merchants on pertinent Visa and MasterCard rules with which merchants must comply; but this information may be provided to you by Processor.
- d) The Bank is responsible for and must provide settlement funds to the merchant.
- e) The Bank is responsible for all funds held in reserve that are derived from settlement.
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##### Important Merchant Responsibilities:

- a) Ensure compliance with Cardholder data security and storage requirements.
- b) Maintain fraud and Chargebacks below Card Organization thresholds.
- c) Review and understand the terms of the Merchant Agreement.
- d) Comply with Card Organization Rules and applicable law and regulations.
- e) Retain a signed copy of this Disclosure Page.
- f) You may download "Visa Regulations" from Visa's website at: <https://usa.visa.com/support/merchant.html>.
- g) You may download "MasterCard Regulations" from MasterCard's website at: <http://www.mastercard.com/us/merchant/support/rules.html>.
- h) You may download "American Express Merchant Operating Guide" from American Express' website at: [www.americanexpress.com/merchantopguide](http://www.americanexpress.com/merchantopguide).

Print Client's Business Legal Name: \_\_\_\_\_

By its signature below, Client acknowledges that it has received the Merchant Processing Application, Program Terms and Conditions [version GP1904(ia)] consisting of 43 pages [including this Confirmation Page and the applicable Third Party Agreement(s)].

Client further acknowledges reading and agreeing to all terms in the Program Terms and Conditions. Upon receipt of a signed facsimile or original of this Confirmation Page by us, Client's Application will be processed.

**NO ALTERATIONS OR STRIKE-OUTS TO THE PROGRAM TERMS AND CONDITIONS WILL BE ACCEPTED.**

#### Client's Business Principal:

Signature (Please sign below):

**X** \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
Please Print Name of Signer

**PROCESSOR INFORMATION:** Name: Gravity Payments, Inc.  
 Address: 1455 NW Leary Way, Suite 200, Seattle, WA 98107  
 URL: \_\_\_\_\_ Customer Service #: 1-866-701-4700

Please read the Program Guide in its entirety. It describes the terms under which we will provide merchant processing Services to you.

From time to time you may have questions regarding the contents of your Agreement with Bank and/or Processor. The following information summarizes portions of your Agreement in order to assist you in answering some of the questions we are most commonly asked.

1. **Your Discount Rates are assessed** on transactions that qualify for certain reduced interchange rates imposed by MasterCard, Visa, Discover and PayPal. Any transactions that fail to qualify for these reduced rates will be charged an additional fee (see Section 25 of the Program Guide).
2. **We may debit your bank account** (also referred to as your Settlement Account) from time to time for amounts owed to us under the Agreement.
3. **There are many reasons why a Chargeback may occur.** When they occur we will debit your settlement funds or Settlement Account. For a more detailed discussion regarding Chargebacks see Section 14 of the Your Payments Acceptance Guide or see the applicable provisions of the TeleCheck Services Agreement.
4. **If you dispute any charge or funding,** you must notify us within 60 days of the date of the statement where the charge or funding appears for Card Processing.
5. **The Agreement limits our liability to you.** For a detailed description of the limitation of liability see Section 27, 37.3, and 39.10 of the Card General Terms.
6. **We have assumed certain risks** by agreeing to provide you with Card processing or check services. Accordingly, we may take certain actions to mitigate our risk, including termination of the Agreement, and/or hold monies otherwise payable to you (see Card Processing General Terms in Section 30, Term; Events of Default and Section 31, Reserve Account; Security Interest), under certain circumstances.
7. **By executing this Agreement with us** you are authorizing us and our Affiliates to obtain financial and credit information regarding your business and the signers and guarantors of the Agreement until all your obligations to us and our Affiliates are satisfied.
8. **The Agreement contains a provision** that in the event you terminate the Agreement prior to the expiration of your initial three (3) year term, you will be responsible for the payment of an early termination fee as set forth in Part IV, A.3 under "Additional Fee Information".

#### 9. Card Organization Disclosure

##### Visa and MasterCard Member Bank Information: Wells Fargo Bank N.A.

The Bank's mailing address is 1200 Montego, Walnut Creek, CA 94598, and its phone number is (925) 746-4143.

##### Important Member Bank Responsibilities:

- a) The Bank is the only entity approved to extend acceptance of Visa and MasterCard products directly to a merchant.
- b) The Bank must be a principal (signer) to the Agreement.
- c) The Bank is responsible for educating merchants on pertinent Visa and MasterCard rules with which merchants must comply; but this information may be provided to you by Processor.
- d) The Bank is responsible for and must provide settlement funds to the merchant.
- e) The Bank is responsible for all funds held in reserve that are derived from settlement.
- f) The Bank is the ultimate authority should a merchant have any problems with Visa or MasterCard products (however, Processor also will assist you with any such problems).

##### Important Merchant Responsibilities:

- a) Ensure compliance with Cardholder data security and storage requirements.
- b) Maintain fraud and Chargebacks below Card Organization thresholds.
- c) Review and understand the terms of the Merchant Agreement.
- d) Comply with Card Organization Rules and applicable law and regulations.
- e) Retain a signed copy of this Disclosure Page.
- f) You may download "Visa Regulations" from Visa's website at: <https://usa.visa.com/support/merchant.html>.
- g) You may download "MasterCard Regulations" from MasterCard's website at: <http://www.mastercard.com/us/merchant/support/rules.html>.
- h) You may download "American Express Merchant Operating Guide" from American Express' website at: [www.americanexpress.com/merchantopguide](http://www.americanexpress.com/merchantopguide).

Print Client's Business Legal Name: \_\_\_\_\_

By its signature below, Client acknowledges that it has received the Merchant Processing Application, Program Terms and Conditions [version GP1904(ia)] consisting of 43 pages [including this Confirmation Page and the applicable Third Party Agreement(s)].

Client further acknowledges reading and agreeing to all terms in the Program Terms and Conditions. Upon receipt of a signed facsimile or original of this Confirmation Page by us, Client's Application will be processed.

**NO ALTERATIONS OR STRIKE-OUTS TO THE PROGRAM TERMS AND CONDITIONS WILL BE ACCEPTED.**

#### Client's Business Principal:

Signature (Please sign below):

X \_\_\_\_\_

\_\_\_\_\_ Title

\_\_\_\_\_ Date

\_\_\_\_\_  
Please Print Name of Signer

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**A. YOUR PAYMENTS ACCEPTANCE GUIDE**

Card acceptance solutions are an essential part of your business, and we want to make accepting payments as simple as possible for you.

This part of the Program Guide (through Appendix 4), is the Your Payments Acceptance Guide. It's your quick reference to some guidelines for initiating transactions and accepting payments. You'll also find recommendations and tips to help you prevent fraud, reduce chargebacks, and properly handle payments, refunds, exchanges, and most other situations you'll encounter in your day-to-day-business. To help you navigate more easily and find the information you need when you need it, we've organized this Section into three parts. At the end of the Section, you'll also find information specific to processing Wex, Voyager, American Express, Discover and PayPal cards payments. Keep in mind, though, these guidelines highlight only some of the Card Organization Rules that apply to your acceptance of payments. Please carefully read the Card Organization Rules for each Card brand you accept.

If you have questions about initiating transactions, accepting payments or any of your other business services, please contact Customer Service at the number listed on your merchant services statement. Your Customer Service team is here to make things easier so let us know what we can do to help.

<b>American Express</b>	<a href="http://www.americanexpress.com">www.americanexpress.com</a>
<b>Discover Financial Services</b>	<a href="http://www.discovernetwork.com/merchants">www.discovernetwork.com/merchants</a>
<b>MasterCard Worldwide</b>	<a href="http://www.mastercard.com/us/merchant/support">www.mastercard.com/us/merchant/support</a>
<b>Visa Inc.</b>	<a href="https://usa.visa.com/support/merchant.html">https://usa.visa.com/support/merchant.html</a>
<b>PayPal™</b>	<a href="http://www.paypal.com">www.paypal.com</a>

The first step of a transaction actually begins before a customer even decides to make a purchase. This part of Your Payments Acceptance Guide reviews steps you'll need to take to ensure customers are informed of their payment options and understand the terms of sale. You'll also find tips and important reminders for validating cards in order to reduce the risk of fraud. Finally, specific procedures for accepting debit and EBT payments are outlined. If you have questions about anything discussed in this guide, please contact Customer Service at the number located on your merchant services statement.

**I. Use Of Payments Organization's Brands****DO'S**

- do prominently display relevant trademarks of the payments organizations at each of your locations, in catalogs, on websites and on other promotional material.
- do only use the official trademarks of ours and of the payments organizations in the official format.

**DON'TS**

- don't indicate that we or any payments organization endorses your goods or services.
- don't use the trademarks of any payments organization after: your right to accept the cards of that payment organization has ended; or that payment organization has notified you to stop using their trademarks.
- don't use the trademarks of ours or of the payments organizations in any way that injures or diminishes the goodwill associated with the trademarks.
- don't use our trademarks or the trademarks of the payments organizations in any manner, including in any advertisements, displays, or press releases, without our prior written consent.

For special rules applying to the treatment of the American Express brand, please refer to Appendix 2.

**2. Point Of Sale (Pos) Reminders****You must clearly and conspicuously:**

- disclose all material terms of sale prior to obtaining an authorization;
- at all points of interaction inform cardholders which entity is making the sales offer, so that the cardholders can clearly distinguish you from any other party involved in the interaction; and
- disclose any discount/incentive for customers to pay with cash, check, credit card or debit card and so on. Any such discount/incentive must be offered to all customers with no special treatment for any card brand or card issuing bank.

If you accept orders via the Internet, your website must include the following information in a prominent manner:

- a complete description of the goods or services offered;
- details of your (i) delivery policy; (ii) consumer data privacy policy; (iii) cancellation policy; and (iv) returns policy;
- the transaction currency (US dollars, unless permission is otherwise received from Servicers);
- the Customer Service contact, including email address and/or telephone number;
- your address, including country;
- the transaction security used on your website;

- any applicable export or legal restrictions;
- your identity at all points of interaction with the cardholder; and
- the date on which any free trial period ends.

If you limit refund/exchange terms or impose other specific conditions for card sales, you must clearly print (in 1/4" letters) the words "No Exchange, No Refund," etc. on the sales draft near or above the cardholder's signature, both on the cardholder's copy and your copy.

During a liquidation and/or closure of any of your outlets, locations and/or businesses, you must post signs clearly visible to customers stating that "All Sales Are Final," and stamp the sales draft with a notice that "All Sales Are Final."

**3. Validating The Cards****Transactions where the cardholder is present - 'Card Present' transactions**

You must check the card if the cardholder is present at the point of sale;

- verify that the card is legitimate and valid;
- verify that the card is not visibly altered or mutilated;
- capture card data using the POS device by swiping the card (magnetic stripe) tapping/waving the card (contactless) or inserting the card (chip card).
- ensure that the cardholder either enters their PIN using the keypad or provides their signature;
- verify that the signature is identical to the name and signature on the card (if a signature is provided);
- verify the card's valid from date (if applicable) and the expiration date;
- verify that the card number and expiration date on the card are the same as on the transaction receipt and the number displayed on the POS device;
- verify that the name on the transaction receipt is the same as the name on the front of the card (if applicable); and
- ensure that the cardholder appears to be the person shown in the photograph (for cards with a photograph of the cardholder).

If the signature panel on the card is blank, you must:

- review positive identification bearing the cardholder's signature (for example, a current passport or driver's license) to validate the cardholder's identity;
- require the cardholder to sign the signature panel of the card prior to completing the transaction;

**Transactions where the cardholder is not present - 'Card Not Present' transactions**

This section applies to any transaction where the cardholder is not present, such as mail, telephone, Internet and E-commerce.

You may only conduct Internet transactions if you have notified us in advance and received approval.

**DO'S**

- do obtain the card account number, name as it appears on the card, expiration date of the card, and the cardholder's statement address.
- do use the Address Verification Service (AVS). If you do not have AVS, contact Customer Service immediately.
- do clearly print the following on the sales draft, and provide a copy to the cardholder at the time of delivery:
  - the last four digits of the cardholder's account number;
  - the date of transaction;
  - a description of the goods and services;
  - the amount of the transaction (including shipping, handling, insurance, etc.);
  - the cardholder's name, billing address and shipping address;
  - the authorization code;
  - your name and address (city and state required); and
  - for mail orders write "MO" and for telephone orders write "TO" on the cardholder's signature line.
- do obtain proof of delivery of the goods or services to the address designated by the cardholder or, if the cardholder collects the goods or services in person, obtain an imprint of the card and the cardholder's signature.
- do notify the cardholder of delivery time frames and special handling and/or cancellation policies.
- do ship goods within seven (7) days from the date on which authorization was obtained. If delays are incurred (for example, out of stock) after the order has been taken, notify the cardholder and obtain fresh authorization of the transaction.
- do use separate Merchant Numbers provided to you for Internet orders in all your requests for authorization and submission of charges.
- do provide at least one (1) month's prior written notice to your acquirer of any change in your Internet address.



**DON'TS**

- don't exceed the percentage of your total payment card volume for Card Not Present sales, as set out in your application.
- don't submit a transaction for processing until after the goods have been shipped or the service has been provided to the cardholder - the only exception to this is where the goods have been manufactured to the cardholder's specifications and the cardholder has been advised of the billing details.
- don't accept card account numbers by electronic mail.
- don't require a cardholder to complete a postcard or other document that displays the cardholder's account number in clear view when mailed or send any mailing to a cardholder that displays personal information in clear view.

It is also recommended that, if feasible, you obtain and keep a copy on file of the cardholder's signature authorizing you to submit telephone and mail order transactions.

Address Verification Service (AVS) (and other fraud mitigation tools such as Verified by Visa®, MasterCard® Secure Code, Card Validation Codes and Card Identification) does not guarantee against chargebacks; but, if used properly, it assists you in reducing the risk of fraud by confirming whether certain elements of the billing address provided by your customer match the billing address maintained by the card issuing bank. AVS also may help you avoid incurring additional interchange expenses. AVS is a separate process from obtaining an authorization and will provide a separate response. A transaction may be authorized regardless of the AVS response. It is your responsibility to monitor the AVS responses and use the information provided to avoid accepting high-risk transactions.

If a disputed charge arises for a transaction conducted over the Internet or electronically, a chargeback may be exercised for the full amount.

For Discover Network transactions, please refer to Appendix 3 for the Discover Network protocol for Internet transactions.

**Customer - activated terminals and self-service terminals**

Transactions processed at customer-activated terminals and self-service terminals have specific requirements for processing. You must contact Customer Service for approval and further instructions before conducting customer-activated terminal transactions or self-service terminal transactions.

**4. Transaction Guidelines****DO'S**

- do only present for payment valid charges that arise from a transaction with a bona fide cardholder.

**DON'TS**

- don't set a minimum transaction amount of more than \$10 for any credit cards or of any amount for debit cards.
- don't set a maximum transaction amount for any credit cards.
- don't establish any special conditions for accepting a card.
- don't make any cash disbursements or cash advances to a cardholder as part of a transaction with the exception of the Discover Network Cash Over service.
- don't accept any direct payments from cardholders for goods or services which have been included on a sales draft;
- don't require a cardholder to supply any personal information for a transaction (for example, phone number, address, driver's license number) unless (i) instructed by the Voice Authorization Center; (ii) presented an unsigned card; or (iii) processing a Card Not Present transaction don't submit any transaction representing the refinance or transfer of an existing cardholder obligation which is deemed uncollectible, for example, a transaction that has been previously charged back, or to cover a dishonored check.
- don't submit sales drafts or credit drafts transacted on the personal card of an owner, partner, officer or employee of your business establishment or of a guarantor who signed your application form, unless such transaction arises from a bona fide purchase of goods or services in the ordinary course of your business.
- don't carry out factoring, that is, the submission of authorization requests and/or sales drafts for card transactions transacted by another business.

**5. Security**

You are responsible for maintaining the security of your POS devices and for instituting appropriate controls to prevent employees or others from submitting credits that do not reflect bona fide returns or reimbursements of earlier transactions.

Please comply with the data security requirements shown below:

**DO'S**

- do install and maintain a secure firewall configuration to protect data.
- do protect stored data, and do encrypt transmissions of data sent across open/public networks, using methods indicated in the Payment Card Industry Data Security Standard (PCI DSS) which is available at: [www.pcisecuritystandards.org](http://www.pcisecuritystandards.org).
- do use and regularly update anti-virus software and keep security patches up-to-date.
- do restrict access to data by business "need to know". Assign a unique ID to each person with computer access to data and track access to data by unique ID.
- do regularly test security systems and processes.
- do maintain a policy that addresses information security for employees and contractors.

- do restrict physical access to cardholder information.
- do destroy or purge all media containing obsolete transaction data with cardholder information.
- do keep all systems and media containing card account, cardholder, or transaction information (whether physical or electronic) in a secure manner so as to prevent access by, or disclosure to any unauthorized party.
- do use only those services and devices that have been certified as PCI-DSS compliant by the payments organizations.

**DON'TS**

- don't use vendor-supplied defaults for system passwords and other security parameters.
- don't transmit cardholder account numbers to cardholders for Internet transactions.
- don't store or retain card verification codes (three digit codes printed in the signature panel of most cards and a four digit code printed on the front of an American Express card) after final transaction authorization.
- don't store or retain magnetic stripe data, PIN data, chip data or AVS data - only cardholder account number, cardholder name and cardholder expiration date may be retained subsequent to transaction authorization.

For Internet transactions, copies of the transaction records may be delivered to cardholders in either electronic or paper format.

**6. TransArmor Services**

If you are receiving TransArmor services from us, the important DOs and DON'Ts listed below apply to you:

**DO'S**

- do comply with the payments organization rules, including PCI DSS.
- do demonstrate and maintain your current PCI DSS compliance certification. Compliance must be validated either by a Qualified Security Assessor (QSA) with corresponding Report on Compliance (ROC) or by successful completion of the applicable PCI DSS Self-Assessment Questionnaire (SAQ) or Report on Compliance (ROC), as applicable, and if applicable to your business, passing quarterly network scans performed by an Approved Scan Vendor, all in accordance with payments organization rules and PCI DSS.
- do ensure that all third parties and software that you use for payment processing comply with the PCI DSS.
- do deploy the data protection solution (including implementing any upgrades to such service within a commercially reasonable period of time after receipt of such upgrades) throughout your systems including replacing existing card numbers on your systems with tokens.
- do use the token in lieu of card numbers for ALL activities subsequent to receipt of the authorization response, including settlement processing, retrieval processing, chargeback and adjustment processing, and transaction reviews.
- do ensure that any eligible POS device, gateway, interactive voice response system, and other eligible systems and equipment are certified by us for use with Data Protection. If you are uncertain whether your equipment is eligible or certified, contact a Customer Service representative at 866-359-0978.
- if you send or receive batch files containing completed card transaction information to/from us, do use the service provided by us to enable such files to contain only tokens or truncated information.
- do use truncated report viewing and data extract creation within reporting tools provided by us.
- do follow rules or procedures we may provide to you from time to time regarding your use of the data protection solution.
- do promptly notify us of a breach of any these terms.

**DON'TS**

- don't retain full card numbers, whether in electronic form or hard copy.
- don't use altered version(s) of the data protection solution.
- don't use, operate or combine the data protection solution or any related software, materials or documentation, or any derivative works thereof with other products, materials or services in a manner inconsistent with the uses contemplated in this section.

**7. Debit Cards**

When accepting debit cards, you'll need to follow the specific requirements for each debit network, as well as, the general requirements set out in this section.

**DO'S**

- do read the account number electronically from the magnetic stripe/chip for transactions authenticated with a PIN. If the magnetic stripe/chip is unreadable, you must request another form of payment from the cardholder.
- do obtain a signature if PIN authentication is not supported or available.

**DON'TS**

- don't process a credit card transaction in order to provide a refund on a debit card transaction.
- don't complete a debit card transaction without:
  - entry of the PIN by the cardholder (and no one else); or

- signature by the cardholder (and no one else)

Unless the transaction is a "no-signature" signature debit transaction or a "PINless" PIN debit transaction specifically supported by the debit network.

- don't accept the PIN from the cardholder verbally or in written form.
- don't manually enter the account number for PIN debit transactions. Signature debit transactions may be key entered if you are unable to swipe the card.

The debit network used to process your debit transaction will depend upon, among other things, our own business considerations, the availability of the debit network at the time of the transaction, and whether a particular debit card is enabled for a particular debit network.

The debit network used to route your transaction may or may not be the lowest cost network available. We may in our sole discretion:

- use any debit network available to us for a given transaction (including any of our affiliated PIN debit networks); and
- add and/or remove debit networks available to you based on a variety of factors including availability, features, functionality and our own business considerations.

**YOU ARE RESPONSIBLE FOR SECURING YOUR POS DEVICES AND FOR IMPLEMENTING APPROPRIATE CONTROLS TO PREVENT EMPLOYEES OR OTHERS FROM SUBMITTING CREDITS AND VOIDS THAT DO NOT REFLECT BONA FIDE RETURNS OR REIMBURSEMENTS OF PRIOR TRANSACTIONS.**

You may offer cash back to your customers when they make a PIN debit card purchase. You may set a minimum and maximum amount of cash back that you will allow. If you are not currently offering this service, your POS device may require additional programming to begin offering cash back as long as it is supported by the debit network.

You must reconcile your accounts for each location daily and notify us within 24 hours of any issues.

An adjustment is a transaction that is initiated to correct a debit card transaction that has been processed in error. For signature debit transactions (including "no-signature" signature debit transactions), both the cardholder and the card issuing bank have the right to question or dispute a transaction. If these questions or disputes are not resolved, a chargeback may occur. You are responsible for all adjustment and chargeback fees that may be charged by a debit network.

An adjustment may be initiated for many reasons, including:

- The cardholder was charged an incorrect amount, whether too little or too much;
- The cardholder was charged more than once for the same transaction;
- A processing error may have occurred that caused the cardholder to be charged even though the transaction did not complete normally at the point of sale; or
- A cardholder is disputing the goods or services provided.

All parties involved in processing adjustments and chargebacks are regulated by timeframes that are specified in the operating rules of the applicable debit network, the Electronic Funds Transfer Act, Regulation E, and other applicable law.

## 8. Electronic Benefit Transfer (EBT) Transactions

We offer electronic interfaces to Electronic Benefit Transfer (EBT) networks for the processing, settlement and switching of EBT transactions initiated through the use of a state-issued EBT card at your point of sale terminal(s) so that EBT recipients may receive EBT benefits.

**EBT benefits may comprise:**

- United States Department of Agriculture, Food and Nutrition Service (FNS).
- Supplemental Nutrition Assistance Program (SNAP),
- Women, Infants and Children Benefits (WIC Benefits), and/or
- Government delivered cash

If you accept EBT transactions and/or provide EBT benefits:

### DO'S

- do provide EBT benefits to EBT recipients in accordance with applicable law and the procedures set out in the Quest rules, in the amount authorized through your terminal, upon presentation by an EBT recipient of an EBT card and such EBT recipient's entry of a valid PIN.
- do use POS Terminals, PIN pad and printer or other equipment that meet required standards (including those set out in the Quest rules) during your normal business hours and in a manner consistent with your normal business practices.
- do comply with the procedures set out in the Quest rules for authorization of EBT benefits if your terminal fails to print EBT benefit issuance information as approved and validated as a legitimate transaction.
- do provide a receipt for each EBT transaction to the applicable EBT recipient.
- do provide EBT benefits for EBT recipients from all states.
- do notify us promptly if you plan to stop accepting EBT cards and providing EBT benefits or if you are unable to comply with this section or the Quest rules.
- do adequately display any applicable state's service marks or other licensed marks, including the Quest marks, and other materials supplied by us in accordance with the standards set by the applicable state.

- do use any marks only to indicate that EBT benefits are issued at your location(s).
- do maintain adequate cash on hand to issue EBT service provider authorized cash benefits.
- do issue cash benefits to EBT recipients in the same manner and to the same extent cash is provided to your other customers.

### DON'TS

- don't accept EBT cards or provide EBT benefits at any time other than in compliance with this section or the Quest rules.
- don't designate and direct EBT recipients to special checkout lanes restricted to use by EBT recipients unless you also designate and direct other customers to special checkout lanes for debit cards or credit cards and/or other payment methods such as checks other than cash.
- don't resubmit any EBT card transaction except as specifically permitted by the applicable Quest rules and procedures.
- don't accept any EBT card for any purpose other than providing EBT benefits, including without limitation accepting an EBT card as security for repayment of any EBT recipient obligation to you. If you violate this requirement, you will be obligated to reimburse the state or us for any EBT benefits unlawfully received by either you or an EBT recipient to the extent permitted by law.
- don't dispense cash for FNS, SNAP and WIC Benefits.
- don't disclose individually identifiable information relating to an EBT recipient or applicant for EBT benefits without prior written approval of the applicable state.
- don't use the marks of any EBT service provider without prior written approval from such EBT service provider.
- don't indicate that we, any state, or its EBT service provider endorse your goods or services.
- don't require, or in your advertising suggest, that any EBT recipient must purchase goods or services from you as a condition to receiving cash benefits, unless such condition applies to other customers as well.

You must take sole responsibility for the provision of any EBT benefits other than in accordance with authorizations received from the EBT service provider.

If an authorized terminal is not working or the EBT system is not available:

### DO'S

- do manually accept EBT cards and manually provide EBT benefits in the amount authorized through the applicable EBT service provider to the EBT recipients at no cost to the EBT recipients upon presentation by an EBT recipient of their EBT card.
- do obtain an authorization number for the amount of the purchase from the applicable EBT service provider while the respective EBT recipient is present and before you provide the EBT recipient with any FNS, SNAP and WIC benefits, or cash benefits, as applicable.
- do properly and legibly enter the specified EBT recipient, clerk and sales information, including the telephone authorization number, on the manual sales draft.
- do clear all manual vouchers authorizations on your point of sale terminal within fourteen (14) days after the date of applicable voice authorization. If a voucher expires before it has been cleared by your terminal for payment, no further action can be taken to obtain payment for the voucher.

### DON'TS

- don't attempt to voice authorize a manual EBT transaction if the EBT recipient is not present to sign the voucher. The EBT recipient must sign the voucher. You must give a copy of the voucher to the EBT recipient at the time of authorization and retain one copy for your records.
- don't re-submit a manual sales draft for payment for a transaction if you have not received an authorization number.
- don't mail vouchers requesting payment.

You must take sole responsibility for (and you will not be reimbursed in respect of) a manual transaction if you fail to obtain an authorization number from the applicable EBT service provider in accordance with this section or otherwise fail to process the manual transaction in accordance with the Quest rules, except as specifically provided in the Quest rules.

This part of Your Payments Acceptance Guide reviews essential elements of a transaction, including authorizations, issuing refunds and exchanges, and handling special transactions like recurring payments. You'll also find information about chargebacks and processes to put in place to avoid chargebacks. Feel free to contact Customer Service with any questions that arise as you review this information.

## 9. Authorizations

### General

- You must obtain an authorization approval code from us for all transactions.
- A positive authorization response remains valid for the timeframe set out in section 19.
- An authorization approval code only indicates the availability of funds on an account at the time the authorization is requested. It does not indicate that the person presenting the card is the rightful cardholder, nor is it a promise or guarantee that you will not be subject to a chargeback and/or adjustment.
- You must not attempt to obtain an authorization approval code from anyone other than us, unless we have authorized you to use a third party authorization system as set out in section 9. An authorization approval code from any other source may not be valid.
- If you use Address Verification Services (AVS), you must review the AVS response separately from the authorization response and make your own decision about whether to accept the transaction. A transaction may receive an authorization approval code from the card issuing bank even if AVS is unavailable or reflects that the address provided to you does not match the billing address on file at the card issuing bank.
- If you receive a referral response to an attempted authorization, you must not:
  - submit the transaction without calling for and receiving a voice authorization; and
  - attempt another authorization on the same card through your POS device.
- You must not attempt to obtain multiple authorizations for a single transaction. If a sale is declined, do not take alternative measures with the same card to obtain an approval of the sale from other authorization sources. Instead, request another form of payment.
- If you fail to obtain an authorization approval code or if you submit a card transaction after receiving a decline (even if a subsequent authorization attempt results in an authorization approval code), your transaction may result in a chargeback and it may be assessed fines or fees by the payments organizations for which you will be responsible. Fees currently range from \$25 to \$150 per transaction.
- You will be charged for a request for an authorization approval code (where applicable), whether or not the transaction is approved.
- For card present transactions, it is highly recommended that you use your electronic authorization device to swipe (magnetic stripe), tap/wave (contactless) or insert (chip) cards.

### Card Not Present transactions

It is highly recommended that you obtain the three digit card verification code on the back of the card (or the four digit verification code on the front of American Express cards) and that you include this code with each card not present authorization request unless the transaction is a recurring transaction.

For recurring transactions, submit the card verification code only with the first authorization request and not with subsequent authorization requests.

For American Express Card Not Present transactions, please also refer to Appendix 2.

For Discover Network Card Not Present transactions, please also refer to Appendix 3.

PayPal does not allow Card Not Present transactions.

### Authorization via telephone (other than terminal/electronic device users)

- You must call your designated Voice Authorization Toll Free Number and enter the authorization information into the VRU using a touch tone phone or hold for an authorization representative.
- If the Voice Authorization Center asks you to obtain identification from the cardholder before issuing an approval code, you must clearly write the appropriate identification source and numbers in the space provided on the sales draft.
- If the Voice Authorization Center asks you to confiscate a card, do not take any action that will alarm or embarrass the card presenter, and send the card to Rewards Department, P.O. Box 5019, Hagerstown, MD 21740. You may be paid a reward for the return of the card.
- If the sale is declined, please remember that our operators are only relaying a message from the card issuing bank. The fact that a sale has been declined must not be interpreted as a reflection of the cardholder's creditworthiness. You must instruct the cardholder to call the card issuing bank.

### Authorization via electronic devices

- If you use an electronic terminal to obtain authorization approval codes, you must obtain the authorization approval codes for all sales through this equipment.
- If your terminal malfunctions, please refer to your Quick Reference Guide or call the POS Help Desk. Please remember to check your terminal periodically because most terminal problems are temporary in nature and are quickly corrected.
- If a terminal is moved or if wires are disconnected, causing malfunction, call the POS Help Desk immediately and follow their instructions. You may be responsible for any service charges incurred for reactivation of the terminal.

- Until the terminal becomes operable, you must call your designated Voice Authorization Toll Free Number and enter authorization information into the VRU using a touchtone phone. During this time, each transaction must be imprinted using a manual Imprinter machine.

### Third party authorization systems

If you have contracted to use one of our authorization services, you must not use another third party authorization system without notifying Customer Service. Otherwise, we will be unable to successfully research and defend any authorization related chargebacks on your behalf. This delay will significantly decrease your time to research and provide proof of authorization, thus reducing your opportunity to reverse a chargeback.

If you use another authorization network:

- you will be responsible for the downgrade of any transactions to a higher cost interchange that result from any mismatch of information to our systems and those of third party authorization networks.
- liability resulting from discrepancies with that network must be resolved between you and that network. We will not research chargebacks resulting from authorization approval codes obtained from another authorization service organization. Such chargebacks will be passed through to you for resolution. If an authorization provided by a third party authorization system is challenged in a chargeback, you must obtain proof (for example, third party authorization logs) from the authorization source and submit it to us within the time frame specified on the chargeback documentation.

Call the following for other card types, each of which is available 24 hours/day; 7 days/week:

<b>American Express Direct</b>	<b>1-800-528-2121</b>
<b>JCB, International (For YEN and CAD currency only)</b>	<b>1-800-522-9345</b>
<b>Voyager</b>	<b>1-800-987-6589</b>
<b>WEX</b>	<b>1-800-842-0071</b>

You must enter manually all approved sales that have been authorized in this manner as "post authorization" transactions into the terminal, once the terminal becomes operational. You must enter all credit transactions into the terminal for data capture. If you receive a referral and subsequently receive an approval, you may be subject to a chargeback. You must imprint the card using a manual imprinter machine to reduce the risk of such a chargeback. For specific procedures on electronic data capture, refer to the Terminal Operating Instructions/Users Guide. If the terminal malfunctions for more than twenty-four (24) hours, contact Customer Service for further instructions on processing your transactions.

### Automated dispensing machines

You must produce records for all transactions originating with automated dispensing machines or limited amount terminals. Such records must include the last four digits of the cardholder account number, merchant's name, terminal location, transaction date, identification of transaction currency, transaction type (purchase), authorization code, and amount.

For Discover Network transactions, please refer to Appendix 3, for the procedure for request for cancellation of authorization.

For PayPal transactions, please refer to Appendix 4 for the procedure for request for cancellation of authorization.

Partial authorization and authorization reversal

Partial authorization provides an alternative to a declined transaction by permitting a card issuing bank to return an authorization approval for a partial amount. This amount is less than the transaction amount requested because the available card balance is not sufficient to approve the transaction in full. The cardholder is able to use the funds remaining on the card to pay for a portion of the purchase and select another form of payment (in other words, another payment card, cash, check) for the remaining balance of the transaction.

- for MasterCard transactions, partial authorization is optional for batch authorized e-commerce transactions, mail order, telephone order transactions and recurring payment transactions.
- for Discover transactions, partial authorization support is optional for Card Not Present transactions. If you support partial authorizations, a partial authorization indicator must be included in each authorization request.

You must submit an authorization reversal if the authorization is no longer needed, a partial amount of the total authorized is submitted for the settled transaction, or the cardholder elects not to complete the purchase. The transaction sent for settlement must be no more than the amount approved in the partial authorization response. If you wish to support partial authorization functionality, you must contact Customer Service for additional rules and requirements.

## 10. Special Types of Transactions

### Payment by installments

If a cardholder makes a deposit toward the full amount of the sale price and pays the balance on delivery, please follow the procedures set out in this section.

**DO'S**

- do execute two separate sales drafts and obtain an authorization for each sales draft on each transaction date;
- do indicate on each sales draft:
  - whether it is for the deposit or the balance of payment; and
  - the authorization date and approval code.
- do submit and seek authorization of each delayed delivery transaction under the same merchant number and treat deposits on the card no differently than you treat deposits on all other payment products.
- do complete Address Verification for each "balance" authorization.
- do obtain proof of delivery upon delivery of the services/merchandise purchased.

**DON'TS**

- don't submit sales data to us relating to the "balance" until the goods have been completely delivered or the services fully provided.

If delivery occurs after the timeframes set out in section 19, you must obtain a new authorization for the unprocessed portion of the transaction prior to delivery. If the transaction is declined, contact the cardholder and request another form of payment.

For example: On January 1, a cardholder orders \$2,200 worth of furniture and you receive an authorization for the full amount; however, only a \$200 deposit is processed leaving a \$2,000 balance remaining on the furniture. An authorization reversal must be processed for \$2,000. When the goods are available to ship, the \$2,000 transaction balance must be reauthorized.

**Advance payment charges**

If you permit or require cardholders to make advance payment charges for the following types of goods or services, please follow the procedures set out in this section:

- custom orders (for example, orders for goods to be manufactured to a customer's specifications);
- ticketing for events or entertainment (for example, sporting events, or concerts);
- tuition, room, board, and other mandatory fees (for example, library or other students services fees at universities);
- tickets for airlines, rail lines, cruise lines, lodging, and other travel-related services (for example, tours or guided expeditions); and
- vehicle rentals; or
- in store merchandise not immediately available (for example, merchandise pre-purchased for an upcoming sale event or merchandise on layaway)

For all advance payment transactions:

- do state your full cancellation and refund policies;
- do clearly disclose your intention to receive advance payment;
- before you request an authorization, do obtain written consent from the cardholder to bill the card for an advance payment charge;

The cardholder's consent must include (1) a detailed description of the goods or services to be provided, and (2) his or her agreement to all of the terms of the sale (including price, any cancellation or refund policies), and the expected delivery date of the goods or services;

- do obtain an authorization approval;
- do complete a sales draft: and
- if you cannot deliver the goods or services (for example, because custom-ordered merchandise cannot be fulfilled) and cannot make other arrangements, do immediately issue a credit for the full amount of the advance payment charge.

For Card Not Present transactions involving an advance payment:

- do ensure that the sales draft contains the words "Advance Payment,"; and
- within twenty-four (24) hours of the advance charge being authorized, do provide the cardholder with written confirmation (for example, by email or facsimile) that advance payment charge has been made, the written confirmation must include (1) a detailed description of the goods or services to be provided; (2) the amount of the charge; (3) the confirmation number (if applicable); (4) the details of any cancellation or refund policies; and (5) the expected delivery date of the goods or services.

**Recurring transactions**

If you process recurring transactions and charge a cardholder's account periodically for recurring goods or services (for example, yearly subscriptions and annual membership fees, etc.), please follow the procedures set out in this section.

**DO'S**

- do obtain cardholder approval for such goods or services to be charged on an ongoing basis to the cardholder's account. Approval must at least specify:
  - the cardholder's name, address, account number and expiration date,
  - the transaction amounts,
  - the timing or frequency of recurring charges,
  - the duration of time for which the cardholder's approval is granted, and
  - for Discover Network transactions, the total amount of recurring charges to be billed to the cardholder's account, including taxes and tips and your merchant number and;

- for PayPal transactions, the total amount of recurring charges to be billed to the cardholder's account, including taxes and tips and your merchant number.

- do obtain an authorization for each transaction.
- do include the recurring payment indicator in each authorization request, and as applicable, each batch submission entry.
- do indicate on the sales draft "Recurring Transaction" (or "P.O." for MasterCard transactions) in lieu of the cardholder's signature.
- for Discover Network recurring transactions, do include a toll-free Customer Service number that the cardholder may call to obtain customer assistance from you or to cancel the written approval for the recurring transaction.
- for PayPal recurring transactions, do include a toll-free Customer Service number that the cardholder may call to obtain customer assistance from you or to cancel the written approval for the recurring transaction.

**DON'TS**

- don't include partial payments for goods or services purchased in a single transaction.
- don't impose a finance charge in connection with the recurring transaction or preauthorized order.
- don't complete a recurring transaction after receiving a cancellation notice from the cardholder or card issuing bank or after a request for authorization has been denied.

It is highly recommended that you obtain the three digit card verification code on the back of the card (or the four digit verification code on the front of American Express cards), include the number with the first authorization request. This is not required for subsequent authorization requests.

A positive authorization response for one recurring transaction is not a guarantee that any future recurring transaction authorization request will be approved or paid.

If the recurring transaction is renewed, you must obtain from the cardholder a new written request for the continuation of such goods or services to be charged to the cardholder's account.

If you or we have terminated your right to accept cards, you must not submit authorization requests or sales data for recurring transactions that are due after the date of such termination.

For American Express transactions please also see Appendix 2.

**Card checks**

If you accept card checks, you must treat checks from all the payments organizations that you accept equally (for example, if you accept MasterCard and American Express, your check acceptance policy must treat checks for both of these payments organizations equally). You should handle these card checks like any other personal check drawn upon a bank in the United States.

**11. Sales Drafts****DO'S**

- do prepare a sales draft for each transaction and provide a copy of the sales draft or transaction receipt to the cardholder at the time the card transaction is completed. An exception is eligible low value transactions participating in any of the 'no signature required' programs.
- do only collect transaction data provided directly to you by the cardholder.
- do include all of the following information on a single page document constituting the sales draft:
  - the cardholder's account number;
  - cardholder's signature, unless you participate in any of the 'no signature required' programs;
  - date of the transaction;
  - the total amount of the transaction, including any taxes to be collected, in the approved currency of the sale;
  - description of the goods and/or services involved in the transaction—if there are too many items, combine them into one description; (for example, "clothing") to ensure that all information is contained on a single page;
  - description of your merchandise return and credit/refund policy;
  - a valid authorization code;
  - Merchant's Doing Business As ("D/B/A") name and location (city and state required) and Merchant Identification Number; and
- if the card has a magnetic stripe and the POS device fails to read the magnetic stripe, or if you are required to obtain a voice authorization, you must also use a manual imprinting machine to make a clear impression of the card on the same side of the signed sales draft. If you work in the face-to-face sales environment, you may include the card verification code in the authorization request for US domestic key-entered transactions in lieu of taking a manual card imprint.

**DON'TS**

- don't include the card expiration date or any more than the last four digits of the card number in the copy of the sales draft which you provide to the cardholder.
- when imprinting sales drafts, you must not alter the cardholder account number, circle or underline any information on the sales draft or alter a sales draft in any way after the

transaction has been completed and signed. Stray marks and other alterations on a sales draft may result in it becoming unreadable or illegible.

For Discover Network transactions in excess of \$50 including sales taxes, tip, surcharge and/or cash over amount are not eligible for any of the 'no signature required' programs.

For PayPal transactions in excess of \$50 including sales taxes, tip, surcharge and/or cash over amount are not eligible for any of the 'no signature required' programs.

If you participate in the Visa Easy Payment Service ("VEPS") (Visa's 'no signature required' program), Quick Payment Service and/or Small Ticket, you are only required to provide the cardholder with the completed sales draft when requested by the cardholder.

If you are operating under certain merchant category codes ("MCC") approved by a payment organization, you are not required to:

- provide a transaction receipt, unless requested by the cardholder; and
- obtain the cardholder's signature provided that you transmit the full track data in the authorization request and the sale amount is below the applicable program floor limit:
  - MasterCard/Discover/PayPal /American Express/STAR - \$50 or less; and
  - Visa - \$25 or less, with the exception of grocery stores (MCC 5411) and discount stores (MCC 5310) for which the floor limit is \$50.

## 12. Refunds

### DO'S

- do provide clear instructions to your customers regarding returns, including the following:
  - Customer Service telephone number;
  - reference number for the return;
  - expected processing time for the credit;
  - return address, preferably on a pre-formatted shipping label (if applicable).
- do document your cancellation policy and terms and conditions on the contract the cardholder signs, or on your website, as applicable.
- do create a credit draft containing the following information for every refund:
  - the account number and expiration date;
  - the cardholder's name;
  - your name, city, state and Merchant Identification Number;
  - a description of the goods or services;
  - the transaction date of the credit; the total amount of the credit; and
  - for Discover Network transactions, the approved currency used and the signature of your authorized representative or employee.
  - for PayPal transactions, the approved currency used and the signature of your authorized representative or employee.
- do submit all credit drafts to us within the timeframes set out in section 19;
- do submit each credit under the establishment where the credit originated;
- do provide full refunds for the exact dollar amount of the original transaction including tax, handling charges, etc., and in no circumstances provide a refund amount for more than the original card sale amount;
- do write clearly all amounts and other handwritten information - stray marks on the credit draft will render it illegible.
- if the card cannot be swiped for any reason, do imprint the credit draft with the same card used by the cardholder to make the original purchase when applicable.
- do ensure that the cardholder signs the credit draft, give the cardholder the appropriate copy, and deposit the credit draft immediately.

### DON'TS

- don't circle or underline any information on the credit draft.
- don't credit an account that differs from the account used for the original transaction.
- don't include the card expiration date or any more than the last four digits of the card number in the copy of the credit draft which you provide to the cardholder.
- don't give cash, check credit refunds or other consideration for card sales, with the exception of the following type of Visa transactions only:
  - Visa Easy Payment Service Transaction (Visa's 'no signature required' program);
  - a gift purchased as a Mail/Phone Order transaction; or
  - Visa prepaid card transaction if the cardholder states that the Visa prepaid card has been discarded.
- don't intentionally submit a sale and an offsetting credit at a later date solely for the purpose of debiting and crediting your own or a customer's account;
- don't process a credit transaction after a chargeback has been received. Authorization is not required for credits.

Your website must communicate your refund policy to your customers and require your customers to select a "click-to-accept" or other affirmative button to acknowledge the policy. The terms and conditions of the purchase must be displayed on the same screen view as the checkout screen that presents the total purchase amount, or within the sequence of website pages the cardholder accesses during the checkout process.

For American Express transactions, please also refer to Appendix 2.

## 13. Exchanges

For an even exchange, no additional paperwork is necessary and you may simply follow your standard company policy.

For an uneven exchange, you must complete a credit draft, and follow the procedures outlined in section 11 for the total amount of the goods returned. The cardholder's account will be credited for that amount. Then, complete a new sales draft for the total amount of any new goods purchased.

## 14. Chargebacks, Retrievals and Other Debits

### Chargebacks

Both the cardholder and the card issuing bank have the right to question or dispute a transaction. If such questions or disputes are not resolved, a chargeback may occur. You are responsible for all chargebacks, our chargeback fees and related costs arising from your transactions. As a result, we will debit your settlement account or settlement funds for the amount of each chargeback.

Due to the short time frames and the supporting documentation necessary to successfully (and permanently) reverse a chargeback in your favor, we strongly recommend that:

- you adhere to the guidelines and procedures outlined in this guide;
- if you do receive a chargeback, investigate, and if you dispute the chargeback, submit the appropriate documentation within the required time frame;
- whenever possible, contact the cardholder directly to resolve the dispute (except with respect to a Discover Network cardholder with whom direct contact regarding the dispute is prohibited by Discover Network Card Organization Rules); and
- if you have any questions, call Customer Service.

You must not process a credit transaction once a chargeback is received, even with cardholder authorization, as the credits may not be recoverable and you may be financially responsible for the credit as well as the chargeback. Instead, the card issuing bank will credit the cardholder's account.

### Chargeback process

If the card issuing bank submits a chargeback, we will send you a chargeback notification, which may also include a request for transaction documentation. Due to the short time requirements imposed by the payments organizations, it is important that you respond to a chargeback notification and transaction documentation request within the time frame set out in the notification.

Upon receipt of a transaction documentation request, you must immediately retrieve the requested sales draft(s) using the following guidelines:

- make a legible copy, centered on 8-1/2 x 11-inch paper (only one (1) sales draft per page);
- write the 'case number' from the request for transaction documentation on each copy/page;
- if applicable, make copies of a hotel folio, car rental agreement, mail/phone/Internet order form, or other form of receipt;
- if a credit transaction has been processed, make a copy of the credit draft;
- letters are not acceptable substitutes for sales drafts;
- fax or mail legible copies of the sales draft(s) and credit drafts, if applicable, to the fax number or mail address provided on the request form;
- if you fax your response, please (i) set your fax machine to print your fax number and name on the documents that you send, and (ii) set the scan resolution on your fax machine to the highest setting. We can use this information to help determine where the documentation received originated from if additional research is required, and the higher resolution setting improves the clarity of characters and graphics on the documentation transmitted and helps reduce the number of illegible fulfillments and/or chargebacks.

We strongly recommend that you also include a detailed rebuttal letter along with all pertinent documents when responding to a transaction request or a chargeback notification (for example, rental agreement, imprinted portion of the invoice or sales draft; the portion signed by the cardholder; and the area where the authorization codes, with amounts and dates, are located).

If the information you provide is both timely and, in our sole discretion, sufficient to warrant a re-presentation of the transaction and/or reversal of the chargeback, we will do so on your behalf. However, re-presentation and/or reversal is/are ultimately contingent upon the card issuing bank and/or cardholder accepting the transaction under applicable payments organization guidelines. Re-presentation or reversal is not a guarantee that the chargeback has been resolved in your favor.

If we do not receive a clear, legible and complete copy of the transaction documentation within the timeframe specified on the request, you may be subject to a chargeback for "non-receipt" for which there is no recourse.

If you do not dispute the chargeback within the applicable time limits as set by the payments organization rules and regulations, you will forfeit your reversal rights. Our only alternative, which is available for Visa and MasterCard only, is to attempt a "good faith collection" from the card issuing bank on your behalf for non-fraud chargeback reason codes. This process can take up to six (6) months and must meet the card issuing bank's criteria (for example, at or above a set dollar amount). Good faith collection attempts are not a guarantee that any funds will be collected on your behalf. Card issuing banks normally charge good faith collection fees, which are deducted from the transaction amount if accepted in addition to any processing fees that are charged by us.

The card issuing bank may charge a handling fee which will be debited from your settlement account or settlement funds if a transaction documentation request results from a discrepancy between the sales draft and the transmitted record regarding any of the following:

- the name of your business;
- the city, state, or country listed for your business;
- the transaction date.

**Visa:** If we reverse the chargeback and re-present the transaction to the card issuing bank, the card issuing bank, at its sole discretion, may elect to submit the matter for arbitration before Visa. Visa currently charges a \$250 filing fee and a \$250 review fee. Whether or not a decision is made in your favor, you will be responsible for all such fees and charges and any other applicable fees and charges imposed by Visa. Such fees and charges will be debited from your settlement account or settlement funds, in addition to the chargeback.

**STAR:** If we reverse the chargeback and re-present the transaction to the card issuing bank, the card issuing bank, at its sole discretion, may elect to submit the matter for arbitration before STAR. Whether or not a decision is made in your favor, you will be responsible for all fees and charges relating to that arbitration and any other applicable fees and charges imposed by STAR. Such fees and charges will be debited from your settlement account or settlement funds, in addition to the chargeback.

**MasterCard:** If we reverse the chargeback and re-present the transaction to the card issuing bank, the card issuing bank, at its sole discretion, may elect to resubmit the chargeback. In such event, at our discretion, we will debit your settlement account or settlement funds for the chargeback. However, if you feel strongly that it is an invalid chargeback, we may, on your behalf and at your request, submit the matter for arbitration before MasterCard. MasterCard currently charges a \$150 filing fee and a \$250 review fee. Whether or not a decision is made in your favor, you will be responsible for all such fees and charges, and any other charges imposed by MasterCard. Such fees and charges will be debited from your settlement account or settlement funds, in addition to the chargeback.

**Discover Network:** If Discover Network rejects our re-presentation request and you feel strongly that the chargeback is invalid, we may, at our discretion and on your behalf and at your request, submit the matter for dispute arbitration before Discover Network. Discover Network charges Acquirers fees for re-presentation requests and matters submitted to Discover Network for arbitration. We, in turn, may charge you fees for these items.

**PayPal:** If PayPal rejects our re-presentation request and you feel strongly that the chargeback is invalid, we may, at our discretion and on your behalf and at your request, submit the matter for dispute arbitration before PayPal. PayPal charges Acquirers fees for re-presentation requests and matters submitted to PayPal for arbitration. We, in turn may charge you fees for these items.

**American Express:** You may request a chargeback reversal if the chargeback was applied in error, provided that (i) you have responded to the original inquiry within the specified timeframe set out in your dispute notification, and (ii) you have provided all supporting documentation to substantiate the error.

#### Chargeback reasons

The following section outlines the most common types of chargebacks. This list is not exhaustive. Within each group, we have included recommendations on how to reduce the risk of chargebacks. These are recommendations only, and do not guarantee that you will eliminate chargebacks.

#### Chargebacks due to authorization

##### Description

Proper authorization procedures were not followed and valid authorization was not obtained.

##### Likely scenario

- authorization not obtained.
- authorization was declined.
- transaction processed with an expired card and authorization was not obtained.
- transaction processed with an invalid account number and authorization was not obtained.
- Card Recovery Bulletin (CRB) or Exception File was not checked (transactions below floor limit).

#### Recommendations to reduce risk of chargeback

- obtain valid authorization on the day of the transaction.
- if you receive the following responses:
  - decline - request another form of payment from the cardholder;
  - referral - follow the voice procedures to obtain a valid authorization and obtain an imprint of the card;
  - "Pick-up" - this means that the card issuing bank is asking for the card to be returned - you must not accept the card for payment and, in addition, you may retain the card and send it to us so that we can arrange for its return to the card issuing bank.
- you must not exceed any predetermined thresholds for specific POS device types as specified by each payments organization.
- you must ship goods within the timeframe set out in section 19, after you have obtained authorization.

#### Chargebacks due to cancellation and returns

##### Description

Credit was not processed properly or the cardholder has canceled and/or returned items.

##### Likely scenario

- Cardholder received damaged or defective merchandise.
- Cardholder continued to be billed for canceled recurring transaction.
- Credit transaction was not processed.

#### Recommendations to reduce risk of chargeback

- issue credit to the cardholder on the same account as the purchase in a timely manner.
- do not issue credit to the cardholder in the form of cash, check or in-store/merchandise credit as we may not be able to recoup your funds if the transaction is charged back.
- for recurring transactions ensure customers are fully aware of the conditions:
  - cancel recurring transactions as soon as notification is received from the cardholder or as a chargeback, and issue the appropriate credit as needed to the cardholder in a timely manner; and
  - notify the cardholder within 10 days (domestic) and 15 days (international) in advance of each billing, to allow the cardholder time to cancel the transaction.
- provide proper disclosure of your refund policy for returned/canceled merchandise, or services to the cardholder at the time of transaction. Card present, cardholder signed the sales draft containing disclosure.
- if applicable, the words "NO EXCHANGE, NO REFUND," etc. must be clearly printed in 1/4-inch lettering on the sales draft near or above the cardholder signature:
  - Ecommerce, provide disclosure on your website on the same page as check out. Require the cardholder to click to accept prior to completion.
  - Card Not Present, provide the cancellation policy at the time of the transaction.
- for any Travel & Entertainment (T&E) transaction, provide cancellation numbers to cardholders when the services are canceled.
- ensure delivery of the merchandise or services ordered to the cardholder.
- participate in recommended fraud mitigation tools.

#### Chargebacks due to fraud

##### Description

Transactions that the cardholder claims are unauthorized; the account number is no longer in use or is fictitious, or the merchant was identified as "high risk."

**NOTE:** For Visa transactions, to ensure that you preserve your chargeback rights, you must:

- complete a retrieval request and/or provide a sales slip that contains all required data elements; and
- respond to all retrieval requests with a clear legible copy of the transaction document that contains all required data elements within the specified timeframe.

##### Likely scenario

- multiple transactions were completed with a single card without the cardholder's permission.
- a counterfeit card was used and proper acceptance procedures were not followed.
- authorization was obtained; however, full track data was not transmitted.
- the cardholder states that they did not authorize or participate in the transaction.

#### Recommendations to reduce the risk of chargeback Card Present Transactions:

- obtain an authorization for all transactions.
- for recurring transactions ensure customers are fully aware of the conditions:
  - cancel recurring transactions as soon as notification is received from the cardholder or as a chargeback, and issue the appropriate credit as needed to the cardholder in a timely manner; and
  - notify the cardholder within 10 days (domestic) and 15 days (international) in advance of each billing, allowing the cardholder time to cancel the transaction.
  - American Express customers have the option to receive written notification of the recurring transaction at least (10) days prior to submitting, or any time the charge amount exceeds a maximum amount that has been set by the cardholder.
- if you are utilizing an electronic device to capture card data, swipe, dip or wave all card transactions through your electronic authorization device to capture cardholder information. When applicable, ensure the displayed cardholder number matches the number on the card.
- You should avoid keying the card data into your electronic authorization device unless you are unable to capture the card data through one of the above methods. If you do key the card data into your electronic authorization device, it is highly recommended that you also key in the three or four digit verification code. Otherwise, you should, imprint the card using a valid imprinting device that will capture the embossed card and merchant information. You must write on the manually imprinted draft all pertinent information relating to the transaction (transaction date, dollar amount, authorization code and merchandise description) and obtain the cardholder signature. Do not alter the imprint on the draft in any way. You are not protected from this type of chargeback by manually entering the information into the POS device.

**NOTE:** Do not imprint on the back of a signed sales draft. The imprint must be on the transaction document that contains all transaction elements to prove the card was present at the time of the transaction.

- Obtain the cardholder signature for all transactions; ensure the signature on the sales draft matches the signature on the back of the card.
- Process all transactions one time and do not batch out transactions multiple times.
- Educate staff on procedures to eliminate point of sale (POS) fraud.

#### **Card Not Present Transactions:**

- Ensure delivery of the merchandise or services ordered to the cardholder.
- Participate in recommended fraud mitigation tools:
  - Verified by Visa Program
  - MasterCard SecureCode
  - Address Verification Services (AVS)
  - Use of card verification code

**NOTE:** While transactions utilizing these tools may still be disputed, the service may assist you with your decision to accept certain cards for payment.

- ensure you ship to the AVS confirmed address (bill to and ship to must match).
- obtain authorization for all transactions.
- ensure merchant descriptor matches the name of the business and is displayed correctly on the cardholder statement.
- ensure descriptor includes correct business address and a valid Customer Service number.
- please refer to Appendix 2 for American Express fraud mitigation tools.

#### **Chargebacks due to cardholder disputes**

##### **Description**

Goods or services not received by the cardholder, Merchandise defective or not as described.

##### **Likely scenario**

- Services were not provided or merchandise was not received by the cardholder.
- Cardholder was charged prior to merchandise being shipped or merchandise was not received by agreed upon delivery date or location.
- Cardholder received merchandise that was defective, damaged, or unsuited for the purpose sold, or did not match the description on the transaction documentation/verbal description presented at the time of purchase.
- Cardholder paid with an alternate means and their card was also billed for the same transaction.
- Cardholder canceled service or merchandise and their card was billed.
- Cardholder billed for a transaction that was not part of the original transaction document.
- Cardholder claims to have been sold counterfeit goods.
- Cardholder claims the merchant misrepresented the terms of sale.

##### **Recommendations to reduce such risk of chargeback**

- provide Services or Merchandise as agreed upon and described to the cardholder; clearly indicate the expected delivery date on the sales receipt or invoice.
- contact the cardholder in writing if the merchandise or service cannot be provided or is delayed, and offer the cardholder the option to cancel if your internal policies allow.
- if the cardholder received defective merchandise or the merchandise received was not as described; resolve the issue with the cardholder at first contact.
- if the merchandise is being picked up by the cardholder, have them sign for the merchandise after inspecting that it was received in good condition.
- do not charge the cardholder until the merchandise has been shipped, according to the agreed upon terms, and a signed Proof of Delivery from the cardholder is obtained.
- if unable to provide services or merchandise, issue a credit to the cardholder in a timely manner.
- accept only one form of payment per transaction. Ensure the cardholder is only billed once per transaction.
- do not bill cardholder for loss, theft or damages unless authorized by the cardholder.
- ensure that a description of the service or merchandise provided is clearly defined.

#### **Chargebacks due to processing errors**

##### **Description**

Error was made when transaction was processed or it was billed incorrectly.

##### **Likely scenario**

- the transaction was not deposited within the payments organization specified timeframe.
- the cardholder was issued a credit draft. However, the transaction was processed as a sale.
- the transaction was to be processed in a currency other than the currency used to settle the transaction.
- the account number or transaction amount used in the transaction was incorrectly entered.
- a single transaction was processed more than once to the cardholder's account.
- the cardholder initially presented the card as payment for the transaction. However, the cardholder decided to use an alternate form of payment.

- a limited amount or self-service terminal transaction was processed for an amount over the pre-determined limit.

#### **Recommendations to reduce risk of chargeback**

- process all transactions within the payments organization specified timeframes.
- ensure all transactions are processed accurately and only one time .
- if a transaction was processed more than once, immediately issue voids, transaction reversals or credits.
- ensure that credit transaction receipts are processed as credits and sale transaction receipts are processed as sales.
- ensure all transactions received a valid authorization approval code prior to processing the transaction. Also obtain a legible magnetic swipe or imprinted sales draft that is signed.
- do not alter transaction documentation or make any adjustments unless the cardholder has been contacted and agrees to modifications of the transaction amount.
- ensure limited amount, self-service and automated fuel dispenser terminals are set properly to conform to the predetermined limits.

#### **Chargebacks due to non-receipt of information Description**

Failure to respond to a retrieval request or the cardholder does not recognize the transaction.

##### **Likely scenario**

- the transaction documentation was not provided to fulfill the retrieval request.
- the retrieval request was fulfilled with an illegible sales draft or was an invalid fulfillment (incorrect sales draft or the sales draft did not contain required information that may include signature).
- the cardholder does not recognize or is unfamiliar with the transaction due to the merchant name and/or location not matching the name and/or location where the transaction took place.

##### **Recommendations to reduce such risk of chargeback**

- provide a clear and legible copy of the sales draft that contains all required data elements within the required timeframe that is specified on the retrieval request.
- ensure that the most recognizable merchant name, location and/or Customer Service phone number is provided on all transactions.
- retain copies of all transaction documentation for the required timeframe that is specified by each payments organization.
- develop efficient methods to retrieve transaction documentation to maximize ability to fulfill requests.

### **15. Suspect/Fraudulent Transactions**

If the card being presented or the behavior of the person presenting the card appears to be suspicious or you otherwise suspect fraud, you must immediately call the Voice Authorization Center and ask to speak to a Code 10 operator. Answer all their questions and follow their instructions.

While not proof that a transaction is fraudulent, the following are some suggestions to assist you in preventing fraudulent transactions that could result in a chargeback:

##### **Does the cardholder:**

- appear nervous/agitated/hurried?
- appear to be making indiscriminate purchases (for example, does not care how much an item costs, the size, etc.)?
- make purchases substantially greater than your usual customer (for example, your average transaction is \$60, but this transaction is for \$360)?
- insist on taking the merchandise immediately (for example, no matter how difficult it is to handle, is not interested in free delivery, alterations, etc.)?
- appear to be purchasing an unusual amount of expensive items or the same items?
- take an unusual amount of time to sign the sales draft, or look at the back of the card as he signs?
- talk fast or carry on a conversation to distract you from checking the signature?
- take the card from a pocket instead of a wallet?
- repeatedly come back, in a short amount of time or right before closing time, to make additional purchases?
- cause an unusual, sudden increase in the number and average sales transactions over a one-to three-day period?
- tell you he has been having some problems with his card issuing bank and request that you call a number (that he provides) for a "special" handling or authorization?
- have a previous history of disputed charges?
- place orders to be shipped to an address other than the billing address, or use anonymous/free email domains?
- place orders sent to zip codes or countries where you show a history of fraudulent claims?

##### **Does the card:**

- have characters the same size, height, style and all within alignment?
- appear to be re-embossed (the original numbers or letters may be detected on the back of the card)?

- have a damaged hologram?
- have a Magnetic Stripe on the back on the card?
- have an altered signature panel (for example, appear discolored, glued or painted, or show erasure marks on the surface)?
- have "valid from" (effective) and "valid thru" (expiration) dates consistent with the sale date?

We also recommend that you are vigilant for any cardholder who behaves as follows, specifically in relation to prepaid cards:

- frequently makes purchases and then returns the goods for cash;
- uses prepaid cards to purchase other prepaid cards;
- uses large numbers of prepaid cards to make purchases.

Gift Cards, jewelry, video, stereo, computer and camera equipment, shoes and men's clothing are typically fraud-prone because they can easily be resold. Also be suspicious of high dollar amounts and transactions with more than one fraud-prone item, (for example, two laptops, three gold chains, etc).

### PART III

In this part of the guide you'll find helpful information about what to do if a card is left at your business, how long you must retain copies of records, how to return equipment and important transaction timeframes. This is also where you'll find additional guidelines for specific industries including:

- Lodging
- Vending machines
- Travel & Entertainment
- Telecommunications
- Restaurants
- Petroleum

If you'd like additional information about anything you've read in Your Payments Acceptance Guide, please contact Customer Service.

#### 16. Lost/Recovered Cards

If a card is left behind and remains unclaimed, you should call the appropriate payment organization's Customer Service team via the number below and they will instruct you on how to handle it:

<b>Visa</b>	<b>1-800-336-8472</b>
<b>MasterCard</b>	<b>1-800-826-2181</b>
<b>Discover</b>	<b>1-800-DISCOVER (1-800-347-2683)</b>
<b>AMEX</b>	<b>1-800-992-3404</b>
<b>PayPal</b>	<b>1-877-569-1113</b>

#### 17. Retention of Records

You must securely retain legible copies of all sales drafts and credit drafts or any other transaction records for the following periods:

**MasterCard, Visa, and STAR:** thirteen (13) months from the transaction date. Five (5) years for healthcare sales drafts and credit drafts.

**Discover Network:** the longer of (i) 365 days or (ii) the resolution of any pending or threatened disputes, claims, disagreements or litigation involving the card transaction. You must also keep images or other copies of sales drafts for no less than three (3) years from the date of the Discover Network transaction.

**PayPal:** the longer of (i) (A) one (1) year from the transaction date, or (B) if the transaction date was subject to dispute, two (2) years from the transaction date or (ii) the time period required by applicable law.

**American Express:** 24 months from the date on which you submitted the sales draft or credit draft to us. You must provide all sales drafts and credit drafts or other transaction records requested by us within the shortest time limits established by payment organization rules.

#### 18. Return of Equipment

To return point of sale (POS) equipment that you do not own, you must call Customer Service for the address of the location to send the device.

You must include the following information in the shipping box:

- your name, address and phone number;
- the name of the person to contact if there are any questions;
- your merchant identification number;
- the lease number (if applicable); and
- the serial number of the POS device (found on the underside of the POS device).

You must return the POS device in a manner that can be tracked. Reference the lease number (if applicable) on the return packaging.

#### 19. Timeframes

##### Authorizations

A positive (approved) authorization response remains valid for:

- seven (7) days for MasterCard electronic processed transactions;

- ten (10) days for Visa, Discover, PayPal and STAR electronic processed transactions subject to the following exception:

- thirty (30) days for Visa, Discover and PayPal and twenty (20) days for STAR for the following Industries:

- car rental;
- airline and passenger railway;
- lodging;
- other Travel & Entertainment (T&E) categories.

- seven (7) days for American Express electronic processed transaction subject to the following exception:

- thirty (30) days for the Travel & Entertainment (T&E) industries.

##### Delayed deliveries

If delivery is more than:

- seven (7) days (MasterCard, Visa, American Express, and STAR transactions); or
- ten (10) days (Discover Network and PayPal transactions);
- after the original transaction date and the initial authorization request, you must reauthorize the unprocessed portion of the transaction prior to delivery.

##### Refunds

You must submit all credit drafts to us within five (5) days of determining that a credit is due.

### 20. Additional Provisions for Specific Industries

#### Merchants in the lodging industry

There are additional rules and requirements that apply to merchants in the lodging industry for practices including, but not limited to, guaranteed reservations and charges for no shows, advance deposits, overbookings, and priority checkout. If you are a lodging merchant and wish to participate in the payment organization lodging services programs, please contact your sales representative or relationship manager for details and the appropriate payments organization requirements.

You must provide the cardholder with written confirmation of a guaranteed reservation. The confirmation must contain:

- cardholder's name as it appears on the card, if present;
- card number, truncated where required by applicable law to you or us and card expiration date if present, unless prohibited by applicable law to you or us;
- reservation confirmation number;
- anticipated arrival date and length of stay;
- the cancellation policy in its entirety, inclusive of the date and time the cancellation privileges expire; and
- any other pertinent details related to the reserved accommodations.

If a cardholder requests a cancellation in accordance with your cancellation policy and specified time frames, you must provide the cardholder with a cancellation number and instructions to retain a record of it.

If a cardholder requests a written confirmation of the cancellation, you must provide this confirmation to the cardholder within three (3) business days of such request. For the purposes of this section, a "business day" means Monday through Friday, excluding Bank holidays.

The cancellation confirmation must contain:

- the cardholder's reference that charges were placed on the card, if applicable, or a guarantee that a "no-show" charge will not be placed on the card;
- the cardholder's name as it appears on the card, if present;
- the card number, truncated as required by applicable law to you or us;
- the card expiration date, if present, unless prohibited by applicable law to you or us;
- the reservation cancellation number;
- the date of cancellation;
- the name of your employee that processed the cancellation; and
- any other pertinent information related to the reserved accommodations.

#### Pre-authorization for Travel & Entertainment (T&E) and restaurant merchants

If you are a business engaged in providing travel and/or entertainment services (for example, car rentals, hotels, motels, etc.) or a restaurant business, and engage in the practice of "pre-authorization" you must comply with the following general procedures:

- a hotel, motel, or car rental merchant may obtain an estimated authorization at the time of check-in.
- restaurants must not add an estimated tip amount to the authorization request beyond the value of the goods provided, or services rendered, plus any applicable tax.
- you must notify the cardholder of the dollar amount you intend to "Pre-Authorize".
- if the customer decides to use another form of payment (for example, cash, check, etc.) you must promptly call the Voice authorization Response Unit to delete the authorization hold. Provide the cardholder's account number, original dollar amount and date of the transaction, and the authorization code. If a new transaction takes place, a new imprinted



and signed sales draft for the exact amount and a new authorization code for that amount must be obtained.

- VEHICLE RENTAL PROVIDERS MAY NOT INCLUDE POTENTIAL VEHICLE DAMAGE OR INSURANCE DEDUCTIBLES IN ANY PREAUTHORIZATIONS.
- if you receive a decline on a transaction, you must wait twenty-four (24) hours before attempting to reauthorize. If you reauthorize prior to this time frame and receive an approval, you may be subject to a chargeback and a fine imposed by the payments organizations.
- hotels, motels, and car rental merchants are allowed up to a 15% variance above the amount authorized. If the final amount charged to the cardholder exceeds the original estimate by more than 15% above the preauthorization, you must authorize any additional amounts, and all incremental authorization codes must be written in the authorization area along with the date of authorization and the amount authorized.
- pre-authorization for certain establishments services, are allowed up to a 20% (instead of 15%) variance above the amount authorized. If the final amount exceeds the amount "preauthorized" by more than 20%, you must authorize the additional amount. Estimating the authorization amount to include a tip is prohibited. The authorization request must include only the amount associated with the bill presented to your customer.
- you must obtain an authorization for the initial estimated charges and then monitor the charges to ensure that the actual charges made do not exceed the estimated charges. If the actual charges exceed the amount of the initial estimated authorization (and any subsequent estimated authorizations), then you must secure a positive authorization for the additional amount. Subsequent authorizations must only be for the additional amount of total charges, and must not include any amounts already authorized.
- the estimated amount of any pre-authorization for lodging accommodations must be based on (i) the intended length of stay; (ii) the room rate; (iii) applicable taxes and service charges; and (iv) other miscellaneous charges as dictated by experience.
- if an authorization request is declined, no charges occurring after that date will be accepted for that cardholder.
- you do not need to obtain a final authorization if the total sum of charges (the final amount) does not exceed 20% of the previously authorized charges. You must record the dates, authorized amounts, and their respective authorization approval codes on the sales draft(s).

#### Merchants operating vending machines

For MasterCard, if you are operating vending machines under MCC 5499 (Miscellaneous Food Stores-Convenience Stores, Markets, Specialty Stores), you need not provide a receipt at the time a transaction is conducted. However, if a vending machine cannot provide a printed receipt, you must disclose and post instructions advising cardholders how a receipt may be obtained.

#### Telecommunication service providers

You must contact Customer Service for approval and further instructions, rules and requirements before conducting telecommunication transactions.

Telecommunication card sales occur when a telephone service provider is paid directly using a card for individual local or long-distance telephone calls, with the exception that prepaid telephone service cards are not and do not give rise to telecommunication card sales.

#### The petroleum industry

For Visa, MasterCard, STAR, American Express, Discover, and PayPal transactions, merchants operating in the petroleum industry that conduct card sales at Automated Fuel Dispensers (AFDs), may submit an authorization request for \$1 to verify the validity of the card presented. Under such circumstances, you must submit an authorization advice message for the actual amount of the card sale within sixty (60) minutes of completion of fuel delivery regardless of whether you previously received a partial authorization response or a positive authorization response for any other amount. If you do not complete the card sale following receipt of an approved authorization response for any amount, a request to cancel the authorization request must be submitted within sixty (60) minutes of the completion of fuel delivery.

## APPENDICES

### APPENDIX I ADDITIONAL PROVISIONS FOR WEX AND VOYAGER

#### WEX cards

If you participate in the WEX Full Service Program, the following terms and conditions will apply:

##### DO'S

- Do provide, at your own expense, all equipment necessary to permit the electronic acceptance of the WEX cards, including the operation and maintenance of the equipment, telecommunication link, and provision of all networking services.
- Do include in any request for authorization the following information:
  - WEX cardholder account number,
  - vehicle number,
  - card expiration date,
  - driver identification number,
  - the amount of the transaction,

- the date and time of the transaction,
- the quantity of goods sold, unit price, and product code (the "authorization Request Data"),
- an authorization number or other approval code from WEX for all manual WEX card sales (in other words, sales facilitated by a card imprinter).
- Do ensure that the product detail of each transaction is accurate including:
  - the type of goods sold,
  - quantity of goods sold,
  - unit price/price per gallon (if applicable),
  - taxes, and
  - any coupons presented.
- Do ensure that the product detail outlined equals the total amount of the sale when calculated (in other words, product quantity x unit price must equal the product amount. The sum of all product amounts including taxes minus any coupons must equal the total transaction amount).
- Do complete a WEX card sale only upon the receipt of an authorization approval message.
- Do provide a copy of the receipt for a WEX card sales, upon the request of the cardholder, to the extent permitted by applicable law. The receipt must not include the full account number or driver identification number.
- Do require the cardholder to sign a receipt when a WEX card sale is not completed by an island card reader.
- Do take all commercially reasonable efforts to protect manual WEX card sales data from fraud or misuse.
- Do securely maintain a record of all WEX card sales (including the authorization request data) for a period of one year.

You must produce such records upon the reasonable request of WEX.

- Do notify us of any errors contained in a settlement report within forty-five (45) days of receipt of such report. We will not accept reprocessing requests for WEX transactions older than 90 days.
- Do allow WEX to audit records, upon reasonable advance notice, related to the WEX Full Service.
- Do retransmit WEX card sales data when reasonably requested to do so.

#### DON'TS

- Don't submit a WEX card sale for processing unless a WEX card is presented at the time of the sale.
- Don't accept a WEX card if an expired card / decline message is received.
- Don't submit a WEX card sale for processing until the goods have been delivered or services performed.
- Don't accept a WEX card if it appears to be invalid or expired or there is reasonable belief that the WEX card is counterfeit or stolen.
- Don't divide the price of goods and services purchased in a single WEX card sale among two or more sales receipts.
- Don't permit a WEX card sale when only partial payment is made by use of the WEX card and the balance is paid with another bank card.
- Don't remove fuel tax at the point of sale is not permitted. For all payment system product codes that are taxable, the transaction dollar amount and price per gallon (PPG) must contain the sum of the fuel cost and PPG inclusive of all applicable Federal, State, County, Local and other fuel taxes.

You acknowledge and agree that your sole remedies with respect to the WEX Full Acquiring services will be against us and not WEX, except to the extent that WEX knows of any fraud related to the WEX cards and fails to provide notice of such fraud or WEX commits fraud in respect to the WEX Full Acquiring Services.

#### Voyager cards

- You must check Fleet Cards for any printed restrictions at the point of sale.
- You must establish a fair policy for the exchange and return of merchandise.
- You must promptly submit credits to us for any returns that are to be credited to a Voyager cardholder's account.
- You must not give any cash refunds to any Voyager card holder in connection with a sale, unless required by law.

In addition to the information set out in Section 11 (Sales Drafts), you must include the following information on a single page document constituting the sales draft for Voyager transactions:

- All authorization request data for Voyager card sales must include the following:
  - Voyager cardholder account number,
  - card expiration date,
  - driver identification number; and
  - the amount of the transaction, date and time of the transaction,
  - quantity of goods sold, unit price, and product code (the "Authorization Request Data").

- All manual Voyager card sales (in other words, sales facilitated by a card imprinter) must include:
  - the Authorization Request Data,
  - an authorization number or other approval code from Voyager,
  - the type of goods sold, quantity of goods sold, unit price/price per gallon (if applicable), taxes, and
  - any coupons presented within the product.
- The product detail outlined must equal the total amount of the sale when calculated, in other words:
  - product quantity x unit price must equal product amount.
  - the sum of all product amounts including taxes minus any coupons must equal the total transaction amount.

You must not remove fuel tax at the point of sale. For all payment system product codes that are taxable, transaction dollar amount and price per gallon (PPG) must contain the sum of the fuel cost and PPG inclusive of all applicable Federal, State, County, Local and other fuel taxes.

If there is an increase of 15% or more compared to the previous month in the number of Voyager transaction authorization calls that are not due to our or Voyager system outages, we may, at our discretion, deduct telephone charges from the settlement of your Voyager transactions. Fees will not exceed \$0.25 (25 cents) per call.

Settlement of Voyager transactions will generally occur by the fourth banking day after we process the applicable card transactions. We will reimburse you for the dollar amount of sales you submit for a given day, reduced by the amount of chargebacks, tax exemptions, discounts, credits, and the fees set out in the Agreement You must notify us of any errors contained with the settlement reports within 30 calendar days of receipt of such report. Neither we nor Voyager will be required to reimburse you for sales submitted more than sixty (60) calendar days from the date of purchase.

For daily transmission of sales data, you must securely maintain true and complete records for a period of not less than thirty six (36) months from the date of the generation of the data. You may store records on electronic media, if secure. You are responsible for the expense of retaining sales data records and sales drafts.

## APPENDIX 2 ADDITIONAL PROVISIONS FOR AMERICAN EXPRESS TRANSACTIONS

### APPENDIX 2

#### ADDITIONAL PROVISIONS FOR AMERICAN EXPRESS TRANSACTIONS

For merchants participating in the American Express OptBlue® Program, you should review the operating guide made available to you at [www.americanexpress.com/merchantopguide](http://www.americanexpress.com/merchantopguide).

##### Treatment of the American Express marks

Whenever payment methods are communicated to customers, or when customers ask what payments are accepted, you must indicate your acceptance of the American Express card and display the American Express marks (including any card application forms provided to you) as prominently and in the same manner as any other payment products.

You must not use the American Express marks in any way that injures or diminishes the goodwill associated with the mark, nor (without our prior written consent) indicate that American Express endorses your goods or services.

You must only use the American Express marks as permitted. You must cease using the American Express marks upon termination of your acceptance of American Express cards. For additional guidelines on the use of the American Express marks, please contact Customer Service.

##### Treatment of American Express cardholder information

Any and all cardholder information is confidential and the sole property of the card issuing bank, American Express or its affiliates. Except as otherwise specified, you must not disclose cardholder information, nor use nor store it, other than to facilitate transactions at your establishments in accordance with the terms on which you are authorized to accept American Express cards.

##### Authorization for Card Not Present transactions

If you process a Card Not Present transaction you must obtain the following information:

- the card number;
- the card expiration date;
- the cardholder's name as it appears on the card;
- the cardholder's billing address; and
- the delivery address if different from the billing address. In addition, for Internet transactions you must:
  - use any separate merchant numbers (Seller ID) established for your Internet orders in all of your requests for authorization and Submission of charges;
  - provide us with at least one (1) month's prior written notice of any change in your Internet address; and
  - comply with any additional requirements that American Express provides from time to time.

American Express has the right to chargeback for any Card Not Present transaction that the cardholder denies making or authorizing. However, American Express will not chargeback for any Card Not Present transaction based solely upon a claim by a cardholder that he or she did not receive the disputed goods if you have:

- verified the address to which the goods were shipped was the cardholder's full billing address; and
- provided proof of delivery signed by the cardholder or an authorized signer of the card indicating the delivery of the goods or services to the cardholder's full billing address.

American Express will not be liable for actual or alleged fraudulent transactions over the Internet and will have the right to chargeback for those charges.

If a disputed transaction arises involving a card not present transaction that is an Internet electronic delivery transaction, American Express may exercise a chargeback for the full amount of the transaction and place you in any of its chargeback programs.

##### Charge records (also known as 'sales drafts')

For each transaction submitted:

- electronically - you must create an electronically reproducible charge record; and
- on paper - you must create a charge record containing all of the following required data:
  - full card number and expiration date, and if available, cardholder name;
  - the date the transaction was incurred;
  - the amount of the transaction, which must be the total price for the purchase of goods and services (plus applicable taxes and gratuities) purchased on the card;
  - the authorization approval;
  - a clear description of the goods and services purchased by the cardholder;
  - an imprint or other descriptor of your name, address, merchant number and, if applicable, store number;
  - the words "No Refunds" if you have a no refund policy, and your return and/or cancellation policies; and
  - the cardholder's signature (if a Card Present transaction), or the words "telephone order," "mail order," "Internet Order," or "signature on file," as applicable (if a Card Not Present transaction).

In the charge record (and a copy of the customer's receipt) you must:

- include your return and/or cancellation policies; and
- mask truncated card number digits with replacement characters such as "x," "\*" or "#," and not blank spaces or numbers.

If the cardholder wants to use more than one card for payment of a purchase, you may create a separate charge record for each card used. However, if the cardholder is using a single card for payment of a purchase, you must not divide the purchase into more than one transaction, and you must not create more than one charge record.

##### Refunds

To issue a refund you must:

- compare the last four digits on the charge record against the card presented (when applicable);
- issue the credit in the currency in which the original transaction was submitted to us; and
- issue the credit to the card used to make the original purchase. If the credit is for the return of a gift by someone other than the cardholder who made the original purchase, you must apply your usual refund policy.

If the cardholder indicates that the card on which the purchase was originally made is no longer active or available:

- for all cards except prepaid cards - advise the cardholder that you must issue the credit to that card; and if the cardholder has questions, advise him or her to call the Customer Service number on the back of the card in question; and
- for prepaid cards - apply your usual refund policy for returns.

In the credit draft delivered to the cardholder you must mask truncated card number digits with replacement characters such as "x," "\*" or "#," and not blank spaces or numbers.

Your refund policy for card transactions must be at least as favorable as your refund policy for purchases made with other payment products or other payment methods.

If you issue a credit, American Express will not refund the discount or any other fees or assessments previously applied on the corresponding transaction. The discount on chargebacks will not be refunded.

##### Fraud mitigation tools

American Express offers fraud mitigation tools for both Card Present and Card Not Present transactions to help verify that a transaction is valid. These tools help you mitigate the risk of fraud at the point of sale, but are not a guarantee that a transaction is in fact valid or bona fide, or that you will not be subject to a chargeback. For optimal use of the tools, please visit American Express' Fraud Prevention Information at: [www.americanexpress.com/fraudinfo](http://www.americanexpress.com/fraudinfo).

##### Recurring transactions

For recurring transactions you must offer the cardholder the option to receive written notification for the recurring transaction(s) at least (10) ten days prior to submitting, or any time the transaction amount exceeds a maximum amount that has been set by the cardholder. You must clearly and conspicuously disclose all material terms of the option, including, if applicable, the fact that recurring billing will continue until the option is

canceled by the cardholder. If the material terms of the option change after submission of the first recurring transaction, you must promptly notify the cardholder in writing of such change and obtain the cardholder's express written consent to the new terms prior to submitting another recurring transaction.

#### For recurring transactions you must:

- periodically verify with cardholders that their information (for example, card number, expiration date, billing address) is still accurate. This will improve the likelihood of obtaining an approval to an authorization request;
- retain evidence of consent to receive updated card account information from the card issuing bank for twenty-four (24) months from the date you submit the last recurring transaction.
- ensure that your process for cancellation of recurring transactions is simple and expeditious; and
- within twenty-four (24) hours of incurring the first recurring billing transaction, provide the cardholder written confirmation (for example, email or facsimile) of such transaction, including all material terms of the option and details of your cancellation/refund policy.

If your recurring transaction amounts vary, you must offer the cardholder the right to receive written notification of the amount and date of each recurring transaction:

- at least ten (10) days before submitting each transaction; or
- whenever the amount of the transaction exceeds a maximum recurring transaction amount specified by the cardholder.

For more information about processing prepaid cards:

- call the Customer Service number on the back of the card in question; and/or
- see American Express Card Organization Rules regarding "additional authorization requirements."

#### No Signature Program

You may participate in the No Signature Program under which you are not required to request a signature from cardholders on the transaction record provided that:

- your business is classified in an industry that accepts in-person charges, with the exception of the following categories:
  - Merchants who do not conduct in-person charges, for example, Internet, mail order or telephone order).
  - prohibited merchants or prohibited transactions (or both) as defined in American Express Card Organization Rules regarding "risk evaluation."
  - high-risk Merchants (for example, Internet electronic services or nightclubs/lounges) as defined in American Express Card Organization Rules regarding "high risk merchants."
  - Merchants placed in our Fraud Full Recourse Program. See American Express Card Organization Rules regarding "chargeback programs".
- in relation to the transaction:
  - the transaction amount must meet the threshold established in American Express' country specific policy.
  - the transaction must include the appropriate indicator to reflect that the card and the Cardholder were present at the point of sale.
  - the transaction must include a valid approval.

Under the American Express No Signature Program, chargebacks will not be exercised for such charges based solely on your failure to obtain the cardholder's signature at the point of sale.

If a disproportionate number of disputed charges under the No Signature Program occur, you must cooperate to reduce the number of disputed charges. If such efforts fail, you may be placed in American Express chargeback programs, or your participation in the No Signature Program may be modified or terminated.

#### Travelers cheques

Travelers cheques are available in various denominations and currencies. The denominations in US dollars range from \$20 to \$1000.

You must exercise caution when presented with a travelers cheque in a denomination of \$500 or greater. The higher denominated travelers cheques are rarely sold, and so more likely to be counterfeit.

To accept a travelers cheque, watch your customer countersign in the lower left corner of the travelers cheque, and compare the countersignature to the signature in the upper left corner of the travelers cheque.

- if the signature and countersignature are a reasonable match (they look alike, but may not be identical), you may accept the cheque and there is no need to obtain any identification.
- if you suspect that the countersignature may be false, or you did not watch the customer countersign, ask your customer to turn the cheque over and sign again across the left-hand side (in the same manner one typically endorses a check); then take the cheque and fold up the bottom right-hand corner so that you can compare the original signature with the new one.
- if the signatures are not the same, or you have any questions regarding the validity of the cheque, call Customer Service.
- if you suspect that the travelers cheque may be fraudulent, verify that the cheque is authentic by:
  - performing the smudge test. Turn the cheque over (non-signature side). Wipe a moistened finger across the denomination.

- on the right side of the cheque, the ink should not smudge.

- on the left side of the cheque, the ink should smudge.

- obtaining online Authorization at [www.americanexpress.com/verifamextc](http://www.americanexpress.com/verifamextc).

You are not required to obtain authorization before accepting a travelers cheque.

#### High CV Merchants

You acknowledge that you will be converted from the American Express US Enhanced Acquisition Program to a direct card acceptance relationship with American Express if and when you become a 'High CV Merchant' in accordance with the American Express Card Organization Rules. As part of this acknowledgment you agree that upon conversion: (i) you will be bound by American Express' then-current agreement for card acceptance; and (ii) American Express will set pricing and other fees payable by you for card acceptance.

A 'High CV Merchant' is a merchant with either (i) greater than \$1,000,000 in charge volume in a rolling twelve (12) month period or (ii) greater than \$100,000 in charge volume in any three (3) consecutive months. For clarification, if a merchant has multiple establishments, the charge volume from all establishments shall be summed together when determining whether the merchant has exceeded the thresholds above.

#### Marketing opt-outs

You agree that when providing your contact information to us that you may receive messages from American Express, including important information about American Express products, services, and resources available to your business. These messages may be sent to the phone numbers, email addresses or fax numbers that you provide. If you provide a wireless phone number, you agree that you may be contacted at that number and the communications sent may include autodialed short message service (SMS or "text") messages or automated or pre-recorded calls. If you provide a fax number, you agree that you may be sent fax communications. American Express may otherwise use and share your information for business purposes and as permitted by applicable law. American Express uses reasonable administrative, technical and physical security measures to protect your information consistent with the sensitivity of the information.

You may opt out of newsletters or messages about products, services and resources for different forms of communications by contacting us, via inbound telephone, email, facsimile, website and any other means identified by us, or by exercising the opt-out options that may be described or offered in emails, SMS messages, faxes or other communications. If you opt out, you may still receive messages from American Express regarding services and programs designed to enhance the value of the American Express Network.

#### Protecting American Express Card Member Information

These merchant data security requirements apply to all of your equipment, systems, and networks on which encryption keys, cardholder data and/or sensitive authentication data are stored, processed, or transmitted.

#### Standards for protection of cardholder data and sensitive authentication data

You must, and you must ensure that all of your employees, agents, representatives, subcontractors, processors, service providers, providers of point-of-sale equipment or systems or payment processing solutions, and any other party to whom you may provide card member information access, will:

- store American Express cardholder data only to facilitate transactions for your acceptance of American Express cards;
- comply with the current version of the PCI DSS, no later than the effective date for implementing that version; and
- use, when deploying new or replacement PIN entry devices or payment applications (or both), only those that are PCI-approved.

You must protect all charge records and credit records retained in accordance with these data security provisions.

You must use these records only for purposes of your acceptance of American Express cards and you must safeguard the records accordingly.

#### Data incidents

If you discover a data incident, you must:

- notify us immediately and in no case later than twenty-four (24) hours after such discovery;
- conduct a thorough forensic investigation of each data incident; this must be conducted by a PCI forensic investigator (PFI) if the data incident involves 10,000 or more unique card numbers (or otherwise at our request);
- promptly provide to us all compromised card numbers and the forensic investigation report of the data incident;
- work with us to rectify any issues arising from the data incident, including consulting with us about your communications to card members affected by the data incident and providing (and obtaining any waivers necessary to provide) to us all relevant information to verify your ability to prevent future data incidents; and
- at our request, provide validation by a qualified security assessor (QSA) that the deficiencies have been remediated. Forensic investigation reports must:
  - include forensic reviews, reports on compliance, and all other information related to the data incident;
  - identify the cause of the data incident;
  - confirm whether or not you were in compliance with the PCI DSS at the time of the data incident; and

•verify your ability to prevent future data incidents by providing a plan for remediating all PCI DSS deficiencies.

American Express has the right to disclose information about any data incident to card members, issuers, other participants on the American Express network, and the general public as required by applicable law, by judicial, administrative, or regulatory order, decree, subpoena, request, or other process; in order to mitigate the risk of fraud or other harm; or otherwise to the extent appropriate to operate the American Express network.

**Periodic validation of your systems**

You must take steps to validate under PCI DSS annually and quarterly the status of your equipment, systems and/or networks (and their components) on which cardholder data and/or sensitive authentication data are stored, processed or transmitted.

**Step 1 - Enroll in a compliance program**

You must submit applicable periodic validation documentation to us. Please contact us for more information regarding data security compliance requirements.

**Step 2 - Determine merchant level and validation requirements**

Most merchant levels are based on the volume of transactions submitted by establishments. You will fall into one of the merchant levels specified in the following table:

Merchant Level	Definition	Validation documentation	Requirement
1	2.5 million transactions or more per year; or any merchant that American Express otherwise deems a level 1 merchant	Annual on-site security assessment report and quarterly network scan	Mandatory
2	50,000 to 2.5 million transactions per year	Annual self-assessment questionnaire (SAQ) and quarterly network scan	Mandatory
3	Less than 50,000 transactions per year	Annual SAQ and quarterly network scan	Strongly recommended
3-	Less than 50,000 transactions per year and designated a level 3 merchant by American Express	Annual SAQ and quarterly network scan	Mandatory

- As designated by American Express.

American Express may require certain level 3 merchants to enroll in American Express' compliance program. Such merchants must enroll no later than ninety (90) days following receipt of such notice from us. All other level 3 merchants need not submit validation documentation, but must comply with all other provisions of these data security provisions.

The validation documentation which you must send to us is as follows:

Annual onsite security assessment	Annual self-assessment questionnaire	Quarterly network scans
<p>This is a detailed onsite examination of your equipment, systems, and networks (and their components) where cardholder data or sensitive authentication data (or both) are stored, processed, or transmitted.</p> <p><b>YOU MUST:</b></p> <ul style="list-style-type: none"> <li>-ensure that the annual onsite security assessment is performed by (i) a QSA, or (ii) you and certified by your chief executive officer, chief financial officer, chief information security officer or principal;</li> <li>-submit the AOC section of the SAQ annually to us, and include copies of the full SAQ upon request; and</li> <li>-ensure that the AOC certifies compliance with all requirements of the PCI DSS.</li> </ul>	<p>This is a process using the PCI DSS self-assessment questionnaire (SAQ) that allows self-examination of your equipment, systems, and networks (and their components) where cardholder data or sensitive authentication data (or both) are stored, processed, or transmitted.</p> <p><b>YOU MUST:</b></p> <ul style="list-style-type: none"> <li>-ensure that the SAQ is performed by you and certified by your chief executive officer, chief financial officer, chief information security officer or principal;</li> <li>-submit the AOC section of the SAQ annually to us, and include copies of the full SAQ upon request; and</li> <li>-ensure that the AOC of the SAQ certifies compliance with all requirements of the PCI DSS.</li> </ul>	<p>The quarterly network scan is a process that remotely tests your internet-connected computer networks and web servers for potential weaknesses and vulnerabilities.</p> <p><b>YOU MUST:</b></p> <ul style="list-style-type: none"> <li>-ensure that the quarterly network scan is performed by an approved scanning vendor (ASV);</li> <li>-complete and submit the ASV scan report attestation of scan compliance (AOSC) or executive summary of findings of the scan (and copies of the full scan, on request) quarterly to us;</li> <li>-ensure that the AOSC or executive summary certifies that (i) the results satisfy the PCI DSS scanning procedures, (ii) no high risk issues are identified, and (iii) the scan is passing or compliant.</li> </ul>

**Step 3 - Send the validation documentation to Participant**

Compliance and validation are completed at your expense. By submitting validation documentation to us, you represent and warrant to us that you are authorized to disclose

the information contained in it and are providing the validation documentation without violating any other party's rights.

**Merchants not compliant with PCI DSS**

If you are not compliant with the PCI DSS, then you must:

- complete and submit an AOC including "Part 4. Action Plan for Non-Compliant Status" to us;
- designate a remediation date, not to exceed twelve (12) months following the date of the AOC, for achieving compliance; and
- provide us with periodic updates of your progress toward remediation under the "Action Plan for Non-Compliant Status."

**Non-validation fees and termination of right to accept cards**

We have the right to impose non-validation fees on you and terminate your right to accept cards if you do not fulfill these requirements or fails to provide the mandatory validation documentation to us by the applicable deadline.

We will notify you separately of the applicable deadline for each annual and quarterly reporting period. If we do not receive your mandatory validation documentation, then we have the right to terminate your right to accept cards and to impose non-validation fees on you.

**Periodic validation of level EMV merchants**

Your merchant level may be classified as EMV if you submit 50,000 (or more) American Express card transactions per year, of which at least seventy-five percent (75%) are made by the card member with the physical card present at a point of sale system compliant with EMV specifications and capable of processing contact and contactless transactions on a chip-enabled device.

If you are classified as merchant level EMV, you may submit the annual EMV attestation (AEA) instead of other validation documentation, in which case you must submit the AEA annually to us. Even if you fall into merchant level 1 or 2, if you are classified as merchant level EMV, you only need to submit the AEA, and not the other merchant level 1 and 2 validation documentation.

The AEA involves a process using PCI DSS requirements that allows self-examination of your equipment, systems, and networks (and their components) where cardholder data or sensitive authentication data (or both) are stored, processed or transmitted.

The AEA must:

- be performed by you;
- be certified by your chief executive officer, chief financial officer, chief information security officer, or principal; and
- certify that you meet the requirements for merchant level EMV.

**APPENDIX 3  
SPECIAL PROVISIONS FOR DISCOVER NETWORK**

**DISCOVER NETWORK PROTOCOL FOR INTERNET TRANSACTIONS**

Each Internet Discover Network card transaction accepted by you and submitted to us shall comply with Discover Network standards, including, without limitation, Discover Network standards governing the formatting, transmission and encryption of data, referred to as the "designated protocol".

You shall accept only those Internet Discover Network card transactions that are encrypted in accordance with the designated protocol. As of the date of these procedures, the designated protocol for the encryption of data is Secure Socket Layer (SSL).

We may, at our discretion, withhold Settlement until security standards can be verified. However, the designated protocol, including any specifications with respect to data encryption, may change at any time upon thirty (30) days advance written notice. You shall not accept any Internet Discover Network card transaction unless the transaction is sent by means of a browser that supports the designated protocol.

**AUTHORIZATIONS**

**Card Not Present Transactions**

For Discover Network Card Not Present transactions, you must also verify the name and billing address of the Discover Network cardholder using the Address Verification System (AVS).

**Discover Network procedure for request for cancellation of authorization**

If a Discover Network or PayPal card sale is canceled or the amount of the transaction changes following your receipt of authorization for the sale, you must process an authorization reversal via your POS Device or, for voice-approved authorizations, call your Authorization Center directly and request a cancellation of the authorization. An authorization may be canceled at any time within ten (10) days of your receipt of the authorization, but must be canceled before the sales data relating to the transaction is submitted to us, after which the authorization cannot be changed. For an authorization cancellation, you must provide us with the following information, in this order:

- the Discover Network Merchant Number used in the authorization;
- the card number;
- the original amount of the authorization being canceled;
- the new amount of the total transaction (if any);

- the original authorization code for the authorization being canceled;
- the expiration date of the card; and
- a brief reason for the authorization cancellation.

#### Discover Network Cash Over Transactions

Cash over transactions are only available for Discover Network.

You may issue cash over in connection with a Discover Network card sale, provided that you comply with the terms on which you are authorized to accept cards, including the following requirements:

- you must deliver to us a single authorization request for the aggregate total of the goods/ services purchase amount and the cash over amount of the card sale. You may not submit separate authorization requests for the purchase amount and the cash over amount;
- the sales draft must include both the purchase amount and the cash over amount, and you may not use separate sales drafts for the purchase amount and cash over amount;
- cash over may only be offered with a Card Present card sale that includes a purchase of goods or services by the cardholder. You must not issue cash over as a stand-alone transaction. If you offer cash over, you may require the total amount of a card sale with a credit product, including cash over, to meet a minimum transaction amount of up to \$10.

You must not assess or charge fees of any type or amount, including any surcharges, on cash over transactions. You must not include in cash over transactions any of the fees or charges applicable to cash advances:

- cash over may not be dispensed in connection with credits, cash advances, or any card sale for which you are unable to electronically capture Track Data using the POS device; and
- the maximum amount of cash that you may issue as cash over is \$100.

**Cash over may not be available in certain markets. Contact us for further information.**

### APPENDIX 4 SPECIAL PROVISIONS FOR PAYPAL

#### PAYPAL DOES NOT PERMIT THE FOLLOWING TRANSACTION TYPES:

PayPal does not permit internet (ecommerce), mail order, manually key-entered, cash type transactions (including, cash over, cash advance or quasi cash transactions), or international / non-U.S. currency transactions. Contact us for further information related to these transaction types.

#### AUTHORIZATIONS

PayPal procedure for request for cancellation of authorization

If a PayPal card sale is canceled or the amount of the transaction changes following your receipt of authorization for the sale, you must process an authorization reversal via your POS Device.

#### PayPal Sublicense to Use PayPal Marks.

You are prohibited from using the PayPal Marks, as defined below, other than as expressly authorized in writing by us. "PayPal Marks" mean the brands, emblems, trademarks, and/or logos that identify PayPal acceptance. You may use the PayPal Marks only to promote PayPal products, offers, services, processing and/or acceptance. Your use of the PayPal Marks is restricted to the display of decals, signage, advertising, and marketing materials provided or approved by PayPal in writing pursuant to the process set forth in the PayPal Card Organization Rules. You shall not use the PayPal Marks in such a way that PayPal Account Holders could believe that the products or services offered by you are sponsored or guaranteed by the owners of the PayPal Marks. You recognize that you have no ownership rights in the PayPal Marks. You shall not assign to any third party any of the rights to use the PayPal Marks. You are prohibited from using the PayPal Marks, not permitted above, unless expressly authorized in writing by PayPal.

### B. CARD GENERAL TERMS 373

In addition to the preceding Your Payments Acceptance Guide, our Agreement with you includes the following General Terms. If you fail to follow any of the provisions of the Your Payments Acceptance Guide Procedures or General Terms, you may incur certain liabilities and we may terminate our Agreement.

#### 21. Services

Subject to Card Organization Rules, Services may be performed by us, our Affiliates, our agents, or other third parties we may designate from time to time in connection with this Agreement.

#### 22. Your Payments Acceptance Guide; Card Organization Rules and Compliance

You agree to follow all requirements of this Agreement in connection with each Card transaction and to comply with all applicable Card Organization Rules, including without limitation, the data security requirements described in Part I, Section 5. From time to time, we may amend the General Terms, by providing you with at least 20 days' prior written notice, and those provisions will be deemed incorporated into this Agreement. However, for changes in the Card Organization Rules or for security reasons, certain changes in Card procedures may become effective on shorter notice. If there are any inconsistencies between the General Terms and Your Payments Acceptance Guide, the General Terms will govern. You are responsible for staying apprised of all applicable changes to the Card Organization Rules and maintaining compliance with the Card Organization Rules. Card Organization Rules may be available on web sites such as

<http://usa.visa.com/merchants/merchant-support/international-operating-regulations.jsp> and <http://www.mastercard.com/us/merchant/support/rules.html>.

These links may change from time to time.

#### 23. Settlement of Card Transactions

**23.1.** We will only be required to settle Card transactions for Card types specified in your Application. Promptly after presentation of Sales Drafts pursuant to Your Payments Acceptance Guide, we will initiate a transfer of the applicable settlement funds to you.

**23.2.** Unless otherwise agreed to in writing to the contrary, all discount fees are deducted daily. All settlements for Visa, MasterCard, Discover Network, PayPal and American Express Card transactions will be net of Credits, Summary Adjustments, applicable discount fees when due, Chargebacks and any other amounts then due from you. We may also set off from any payments otherwise due, any amounts owed to any of our respective Affiliates, whether or not arising out of or related to this Agreement.

**23.3.** All credits to your Settlement Account or other payments to you are provisional and are subject to, among other things, our right to deduct our fees, our final audit, Chargebacks (including our related losses), and fees, fines and any other charge imposed on us by the Card Organizations as a result of your acts or omissions. You agree that we may debit or credit your Settlement Account for any deficiencies, overages, fees, pending Chargebacks and any other amounts owed to us or any of our respective Affiliates, or we may deduct such amounts from settlement funds or other amounts due to you from us, or our respective Affiliates. You further agree we can offset any amounts owed to us or our Affiliates related to activity in other accounts maintained in the name of or guaranteed by you, any of your principals, guarantors or authorized signors. Alternatively, we may elect to invoice you for any such amounts, net due 30 days after the invoice date or on such earlier date as may be specified.

**23.4.** We will not be liable for any delays in receipt of funds or errors in debit and credit entries caused by you or any Person.

**23.5.** In addition to any other remedies available to us under this Agreement, you agree that should any Event of Default (see Section 30.4) occur, we may, with or without notice, change processing or payment terms and/or suspend credits or other payments of any and all funds, money and amounts now due or hereafter to become due to you pursuant to the terms of this Agreement, until we have had reasonable opportunity to investigate such event.

**23.6.** You acknowledge and agree that transfers to and from the Settlement Account shall be based on the account number and routing number supplied by you. We are not responsible for detecting errors in any Settlement Account information you provide, including the account numbers and routing numbers, even if any of those numbers do not correspond to the actual account or financial institution identified by name.

**23.7.** This Agreement is a contract whereby we are extending financial accommodations to you within the meaning of Section 365(c) of the U.S. bankruptcy code. Your right to receive any amounts due or to become due from us is expressly subject and subordinate to Chargeback, setoff, lien, security interest and our rights to withhold settlement funds under this Agreement, without regard to whether such Chargeback, setoff, lien, security interest and the withholding of settlement funds rights are being applied to claims that are liquidated, unliquidated, fixed, contingent, matured or unmatured.

#### 24. Exclusivity

During the term of this Agreement, you shall use us as your exclusive provider of all Services.

#### 25. Fees; Adjustments; Collection of Amounts Due

**25.1.** In consideration of the Services provided by us, you shall be charged, and hereby agree to pay us any and all fees set forth in this Agreement (for the purposes of clarity, this includes the Application and any additional pricing supplements or subsequent communications), all of which shall be calculated and payable pursuant to the terms of this Agreement and any additional pricing supplements or subsequent communications.

If a transaction fails to qualify for your anticipated interchange levels or you inadvertently or intentionally accept a transaction other than the type anticipated for your account (including a different Card type), then, as applicable to your pricing method, you will be charged a higher interchange, Discount Rate or Non-Qualified Interchange Fee, as well as any applicable surcharge for that transaction, all as further described in Section A.3 of Part IV of this Agreement and in the Application. With respect to inadvertent or intentional acceptance of a transaction other than the type anticipated for your account (including a different Card type), you will also be subject to payment to us of our then-current transaction fee(s) with respect to such Card and/or transaction and be liable, obligated and responsible under this Agreement for any such transaction to the same extent as you would be if it was of a Card type elected and approved.

For more information on Visa's and MasterCard's interchange rates, please go to [www.visa.com](http://www.visa.com) and [www.mastercard.com](http://www.mastercard.com).

**25.2.** All authorization fees will be charged for each transaction that you attempt to authorize. All capture fees will be charged for each transaction that you transmit to us for settlement. If you are being billed a combined fee for both the authorization and capture of a transaction, the authorization and capture must be submitted as a single transaction, otherwise the authorization and the capture will each be charged separately. You are responsible for utilizing software or services that will correctly submit these transactions to achieve the combined billing.

**25.3.** The fees for Services set forth in this Agreement are based upon assumptions associated with the anticipated annual volume and average transaction size for all Services as set forth in this Agreement and your method of doing business. If the actual volume or average transaction size are not as expected or if you significantly alter your method of doing business, we may adjust your discount fee and transaction fees without prior notice.

**25.4.** The fees for Services set forth in this Agreement may be adjusted to reflect increases, or new fees imposed by Card Organizations, including without limitation, interchange, assessments and other Card Organization fees, or to pass through increases or new fees charged to us by other Persons related to the Services. All such adjustments shall be your responsibility to pay and shall become effective upon the date any such change or addition is implemented by the applicable Card Organization or other Person as specified in our notice to you.

**25.5.** Subject to Section 30.3, we may also increase our fees or add new fees for Services for any reason at any time, by notifying you thirty (30) days' prior to the effective date of any such change or addition.

**25.6.** If you receive settlement funds by wire transfer, we may charge a wire transfer fee per wire.

**25.7.** To the extent the Automated Clearing House ("ACH") settlement process is used to effect debits or credits to your Settlement Account, you agree to be bound by the terms of the operating rules of the National Automated Clearing House Association, as in effect from time to time. You hereby authorize us to initiate credit and debit entries and adjustments to your account through the ACH network and/or through direct instructions to the financial institution where your Settlement Account is maintained for amounts due under this Agreement and under any agreements with us or our respective Affiliates for any products or services, as well as for any credit entries in error. You hereby authorize the financial institution where your Settlement Account is maintained to effect all such debits and credits to your account. This authority will remain in full force and effect until we have given written notice to the financial institution where your Settlement Account is maintained that all monies due under this Agreement and under any other agreements with us or our respective Affiliates for any products or services have been paid in full. You are solely responsible to inform us in writing if you want any fees or other adjustments to be debited from an account other than your Settlement Account.

**25.8.** You agree to pay any fines imposed on us by any Card Organization resulting from Chargebacks and all fees, fines and other charges imposed on us by a Card Organization with respect to your acts or omissions. You are also responsible for all fees, fines, and other charges imposed on us as a result of acts or omissions by your agents or third parties.

**25.9.** If your Chargeback percentage for any line of business exceeds the estimated industry Chargeback percentage, you shall, in addition to the Chargeback fees and any applicable Chargeback handling fees or fines, pay us an excessive Chargeback fee for all Chargebacks occurring in such month in such line(s) of business. Each estimated industry Chargeback percentage is subject to change from time to time by us in order to reflect changes in the industry Chargeback percentages reported by Visa, MasterCard, American Express, Discover Network, or PayPal. Your Chargeback Percentage will be calculated as the larger of (a) the total Visa, MasterCard, American Express, Discover Network and PayPal Chargeback items in any line of business in any calendar month divided by the number of Visa, MasterCard, American Express, Discover Network and PayPal transactions in that line of business submitted that month, or (b) the total dollar amount of Visa, MasterCard, American Express, Discover Network and PayPal Chargebacks in any line of business received in any calendar month divided by the total dollar amount of your Visa, MasterCard, American Express, Discover Network and PayPal transactions in that line of business submitted in that month.

**25.10.** You agree to promptly and carefully review your merchants statements or other documents provided or made available to you (physically, electronically or otherwise provided by Us or others) reflecting Card transaction activity, including, activity in your Settlement Account. If you believe any adjustments should be made with respect to your Settlement Account, you must notify us in writing within sixty (60) days after any debit or credit is or should have been effected or such shorter period as provided in the terms and conditions that govern such account. If you notify us after sixty (60) days, we shall have no obligation to investigate or effect any adjustments. Any voluntary efforts by us to assist

you in investigating such matters shall not create any obligation<sup>374</sup> to continue such investigation or any future investigation.

**25.11.** If you do not pay us all fees and any other amounts due under this Agreement within thirty (30) days of the date of our merchant statement or other statement setting forth the amount due, then we may, in our sole discretion, charge you interest, for such time that the amount and all accrued interest remain outstanding at the lesser of (i) 12% APR, or (ii) the maximum rate permitted by applicable law.

**25.12.** Other Debits. We may also debit your Settlement Account or your settlement funds in the event we are required to pay Card Organization fees, charges, fines, penalties or other assessments as a consequence of your sales activities. Such debits shall not be subject to any limitations of time specified elsewhere in the Agreement, including, without limitation the following, which we may add to or delete from this list as changes occur in the Card Organization Rules or our Your Payments Acceptance Guide pursuant to Section 22:

- Card Organization fees, charges, fines, penalties, registration fees, or other assessments including any fees levied against us or any amount for which you are obligated to indemnify us.

- Currency conversion was incorrectly calculated.

**NOTE:** For Discover Network transactions, you are not permitted to convert from your local Discover Network approved currency into another currency, nor may you quote the price of a transaction in U.S. Dollars if completed in another approved currency.

- Discount Rate not previously charged.

- Reversal of deposit posted to your account in error.

- Debit for Summary Adjustment not previously posted.

- Reversal of Credit for deposit previously posted.

- Debit for Chargeback never posted to your account.

- Debit for EDC Batch error fee.

- Card Organization Merchant Chargeback/fraud monitoring fees – excessive Chargeback handling fees.

- Failure of transaction to meet Member Controller Authorization Service ("MCAS") – Cardholder account number on exception file.

- Original transaction currency (foreign) not provided.

- Travel Voucher exceeds maximum value.

- Debit and/or fee for investigation and/or Chargeback costs related to this Agreement, or for costs related to our collection activities in an amount no less than \$100.00.

- Costs arising from replacement or damage to equipment rented.

- Payment of current or past due amounts for any equipment purchase, rental or lease.

- Incorrect merchant descriptor (name and/or city, state) submitted.

- Incorrect transaction date submitted.

- Shipping and handling fees.

- Costs or expenses associated with responding to any subpoena, garnishment, levy or other legal process associated with your account in an amount no less than \$150.00.

## 26. Chargebacks

**26.1.** You shall be responsible for reimbursing us for all transactions you submit that are charged back. See Your Payments Acceptance Guide for additional information regarding Chargebacks and Chargeback procedures.

**26.2.** You shall reimburse us for any Chargebacks, return items, or other losses resulting from your failure to produce a Card transaction record requested by us within the applicable time limits.

## 27. Representations, Warranties, Covenants, Limitations on Liability, Exclusion of Consequential Damages

**27.1.** Without limiting any other warranties hereunder, you represent, warrant to and covenant with, us, and with the submission of each Sales Draft reaffirm, the following representations, warranties and/or covenants:

**27.1.1.** each Card transaction is genuine and arises from a bona fide transaction permissible under the Card Organization Rules by the Cardholder directly with you, represents a valid obligation for the amount shown on the Sales Draft, preauthorized order, or Credit Draft, and does not involve the use of a Card for any other purpose;

**27.1.2.** each Card transaction represents an obligation of the related Cardholder for the amount of the Card transaction;

**27.1.3.** the amount charged for each Card transaction is not subject to any dispute, setoff or counterclaim;

**27.1.4.** each Card transaction amount is only for respective merchandise or services (including taxes, but without any surcharge) sold, leased or rented by you pursuant to your business as indicated on the application and, except for any delayed delivery or advance deposit Card transactions expressly authorized by this Agreement, that merchandise or service was actually delivered to or performed for the Cardholder entering into that Card transaction simultaneously upon your accepting and submitting that Card transaction for processing;

**27.1.5.** with respect to each Card transaction, you have no knowledge or notice of any fact, circumstance or defense which would indicate that such Card transaction is fraudulent or not authorized by the related Cardholder or which would otherwise impair the validity

or collectability of that Cardholder's obligation arising from that Card transaction or relieve that Cardholder from liability with respect thereto;

**27.1.6.** each Card transaction is made in accordance with these General Terms, Card Organization Rules and Your Payments Acceptance Guide;

**27.1.7.** each Sales Draft is free of any alternation not authorized by the related Cardholder;

**27.1.8.** you have completed one Card transaction per sale; or one Card transaction per shipment of goods for which the Cardholder has agreed to partial shipments;

**27.1.9.** you are validly existing, in good standing and free to enter into this Agreement;

**27.1.10.** each statement made on the Application or other information provided to us in support of this Agreement is true and correct;

**27.1.11.** you are not doing business under a name or style not previously disclosed to us;

**27.1.12.** you have not changed the nature of your business, Card acceptance practices, delivery methods, return policies, or types of products or services sold requiring a different MCC under Card Organization Rules, in a way not previously disclosed to us;

**27.1.13.** you will use the Services only for your own proper business purposes and will not resell, directly or indirectly, any part of the Services to any Person; (**NOTE:** Factoring is prohibited.)

**27.1.14.** you have not filed a bankruptcy petition not previously disclosed to us;

**27.1.15.** you own and control the Settlement Account, and no third party security interest or lien of any type exists regarding the Settlement Account or any Card transaction.

**27.1.16.** you will not at any time during the term of this Agreement, or until all amounts due under this Agreement have been paid in full, grant or pledge any security interest or lien in the Reserve Account, Settlement Account or transaction proceeds to any Person without our consent;

**27.2.** THIS AGREEMENT IS A SERVICE AGREEMENT. WE DISCLAIM ALL REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, MADE TO YOU OR ANY OTHER PERSON, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES REGARDING QUALITY, SUITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR OTHERWISE OF ANY SERVICES OR ANY GOODS PROVIDED INCIDENTAL TO THE SERVICES PROVIDED UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ANY SERVICES OR ANY GOODS PROVIDED BY A THIRD PARTY.

**27.3.** IN NO EVENT SHALL WE OR OUR AFFILIATES OR ANY OF OUR OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR SUBCONTRACTORS, BE LIABLE UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHER LEGAL THEORY FOR LOST PROFITS, LOST REVENUES, LOST BUSINESS OPPORTUNITIES, EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, EACH OF WHICH IS HEREBY EXCLUDED BY AGREEMENT OF THE PARTIES, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR WHETHER ANY PARTY OR ANY ENTITY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CLIENT ACKNOWLEDGES AND AGREES THAT PAYMENT OF ANY EARLY TERMINATION FEE OR LIQUIDATED DAMAGES AS PROVIDED ELSEWHERE IN THIS AGREEMENT SHALL NOT BE PROHIBITED BY THIS PARAGRAPH.

**27.4.** NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY (INCLUDING BUT NOT LIMITED TO SECTIONS 33 or 28.5), OUR CUMULATIVE LIABILITY FOR ALL LOSSES, CLAIMS, SUITS, CONTROVERSIES, BREACHES OR DAMAGES FOR ANY CAUSE WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, THOSE ARISING OUT OF OR RELATED TO THIS AGREEMENT), REGARDLESS OF THE FORM OF ACTION OR LEGAL THEORY, SHALL NOT EXCEED, (I) \$50,000; OR (II) THE AMOUNT OF FEES RECEIVED BY US PURSUANT TO THIS AGREEMENT FOR SERVICES PERFORMED IN THE IMMEDIATELY PRECEDING 12 MONTHS, WHICHEVER IS LESS.

**27.5.** NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY (INCLUDING BUT NOT LIMITED TO SECTION 30), OUR LIABILITY FOR ANY DELAY IN FUNDING TRANSACTIONS TO YOU FOR ANY REASON, OTHER THAN FOR ANY REASON DESCRIBED IN SECTIONS 23.4 AND 23.6, WILL BE LIMITED TO INTEREST COMPUTED FROM THE DATE THAT YOU SUBMIT THE TRANSACTION TO THE DATE THAT WE FUND THE TRANSACTION AT THE RATE OF THE FEDERAL FUNDS AS SET BY THE FEDERAL RESERVE BANK OF NEW YORK, NEW YORK, FROM TIME TO TIME, LESS ONE PERCENT (1%).

**27.6.** NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, BANK IS NOT RESPONSIBLE, AND SHALL HAVE NO LIABILITY, TO YOU IN ANY WAY WITH RESPECT TO NON-BANK SERVICES.

## 28. Confidentiality

**28.1.** Unless you obtain written consents from us and each applicable Card Organization, Issuer and Cardholder, you must not use, disclose, store, sell or disseminate any Cardholder information obtained in connection with a Card transaction (including the names, addresses and Card account numbers of Cardholders) except for purposes of authorizing, completing and settling Card transactions and resolving any Chargebacks, Retrieval Requests or similar issues involving Card transactions, other than pursuant to a court or governmental agency request, subpoena or order. You shall use proper controls for and limit access to, and render unreadable prior to discarding, all records containing Cardholder account numbers and Card imprints. You may not retain or store Magnetic Stripe data or Card Validation Codes after a transaction has been authorized. If you store any electronically captured signature of a Cardholder, you may not reproduce such signature except upon our specific request.

**28.2.** You acknowledge that you will not obtain ownership rights in ~~27.5~~ information relating to and derived from Card transactions. Cardholder account numbers, personal information and other Card transaction information, including any databases containing such information, may not be sold or disclosed to a Person as an asset upon a bankruptcy, insolvency or failure of Client's business. Upon a bankruptcy, insolvency or failure of Client's business, all Card transaction information must be returned to Servicers or acceptable proof of the destruction of all Card transaction information must be provided to Servicers.

**28.3.** You will treat this Agreement, the Card Organization Rules and any information supplied or otherwise made accessible by us or our agents as confidential, including without limitation, (i) information about the products, services, operations, procedures, customers, suppliers, sales, pricing, business plans and marketing strategies of Servicers, their respective Affiliates and the customers, clients and suppliers of any of them; (ii) any scientific or technical information, design, process, procedure, formula, or improvement that is commercially valuable and secret in the sense that its confidentiality affords Servicers a competitive advantage over its competitors; and (iii) all confidential or proprietary concepts, documentation, reports, data, specifications, computer software, source code, object code, flow charts, databases, inventions, know-how, show-how and trade secrets, whether or not patentable or copyrightable and will not disclose the same to any third parties, provided, however, that these restrictions do not apply to information: (a) rightfully obtained on a non-confidential basis from a Person and your agents and representatives, which Person was not subject to a duty of confidentiality, (b) rightfully and independently known by you on a non-confidential basis prior to its disclosure or (c) generally available to the public other than through any disclosure by or fault of you, your agents or representatives.

**28.3.1.** Our confidential information shall be used by you only to exercise your rights and to perform your obligations hereunder. Client shall receive our confidential information in confidence and not disclose the confidential information to any third party, except as may be agreed upon in writing by us. Client shall safeguard all of our confidential information using a reasonable degree of care, but not less than that degree of care used by it in safeguarding its own similar information or material. Upon request by us or upon termination of this Agreement, Client shall return to us or destroy all of our confidential information in its possession or control.

**28.3.2.** The obligations of confidentiality and restrictions on use in this Section shall not apply to any confidential information that: (i) was in the public domain prior to the date of the Agreement or subsequently came into the public domain through no fault of Client; (ii) was received from a third party free of any obligation of confidence of Client to the third party and which third party, to Client's knowledge, was not under an obligation to keep the information confidential; (iii) was already in Client's possession prior to receipt from us; (iv) is required to be disclosed by law, regulation or court order after giving us as much advance notice as practical of the possibility of disclosure; or (v) is subsequently and independently developed by Client's employees, consultants or agents without use of or reference to our confidential information.

**28.3.3.** Except as specifically provided for herein, this Section does not confer any right, license, interest or title in, to or under our confidential information to Client. Except as specifically provided for herein, no license is hereby granted to Client under any patent, trademark, copyright, trade secret or other proprietary rights of ours.

**28.3.4.** Client acknowledges that breach of the restrictions on use or disclosure of any our confidential information would result in immediate and irreparable harm to us, and money damages would be inadequate to compensate for that harm. We shall be entitled to equitable relief, in addition to all other available remedies, to redress any breach.

**28.4.** We may use data collected as part of performing payment processing or other transaction-related services for you ("Transaction Data") for the purpose of providing additional products and services to you, other merchants, or third parties. This includes collecting, using, and de-identifying cardholder information, dates, amounts, and other Transaction Data to provide you with analytic products and services as well as collecting and using Transaction Data anonymized and aggregated with other merchants' transaction data to provide you, other merchants, and third parties with analytic products and services.

**28.5.** You shall not assign to any Person, the rights to use the Marks of Servicers, our agents or the Card Organizations.

**28.6.** All rights, title, and interest in and to all intellectual property related to the Services (including without limitation, the content of any materials, web screens, layouts, processing techniques, procedures, algorithms, and methods), owned, developed or licensed by us prior to, during the term of, or after the Agreement, or employed by us in connection with the Services and any updates, changes, alterations, or modifications to or derivative works from such intellectual property, shall be and remain, as among the Parties, our exclusive property.

**28.7.** Client agrees that we may obtain relevant information from any applicable telecommunications provider utilized by Client, as necessary to investigate any allegation of fraud, suspected fraud or other actual or alleged wrongful act by Client in connection with the Services.

## 29. Assignments

**29.1.** Any transfer or assignment of this Agreement by you, without our prior written consent, by operation of law or otherwise, is voidable by us. Any transfer of voting control of you or your parent shall be considered an assignment or transfer of this Agreement. Furthermore, you shall indemnify and hold us harmless from all liabilities, Chargebacks, expenses, costs, fees and fines arising from such transferee's or assignee's Submission of Card transactions to us for processing. For purposes of this Section 29, any transfer of voting control shall be considered an assignment or transfer of this Agreement.

**29.2.** The payment Services provided by us require access to a single bank account in which we may initiate both credits and debits. You may not enter into any agreement that would require, in any circumstance or event, the transfer of any payments or proceeds from Card transactions covered by this Agreement to the custody or control of any Person. You may not assign any rights, including the right of payment under this Agreement, to any other person. In the event that you make an assignment (or provide a security interest) of receivables covered by this Agreement, then we may, at our option, elect to (a) refuse to acknowledge such assignment unless accompanied by an Authorization to both initiate debits or credits to the bank account of the assignee, (b) terminate this Agreement immediately, or (c) charge for any transfers that we are called upon to make manually to fulfill such an assignment at the rate of \$100 per transfer.

**29.3.** Another Visa and MasterCard member may be substituted for Bank under whose sponsorship this Agreement is performed with respect to Visa and MasterCard transactions. Upon substitution, such other Visa and MasterCard member shall be responsible for all obligations required of Bank for Visa and MasterCard transactions, including without limitation, full responsibility for its Card program and such other obligations as may be expressly required by applicable Card Organization Rules.

Subject to Card Organization Rules, we may assign or transfer this Agreement and our rights, duties and obligations hereunder and/or may delegate or subcontract our rights, duties and obligations hereunder, in whole or in part, to any Person, whether in connection with a change in sponsorship, as set forth in the preceding paragraph, or otherwise, without notice to you or your consent.

**29.4.** Except as set forth elsewhere in this Section and as provided in the following sentence, this Agreement shall be binding upon successors and assigns and shall inure to the benefit of the parties and their respective permitted successors and assigns. No assignee for the benefit of creditors, custodian, receiver, trustee in bankruptcy, debtor in possession, or other person charged with taking custody of a party's assets or business, shall have any right to continue, assume or assign this Agreement.

### 30. Term, Events of Default

**30.1.** This Agreement shall become effective upon the date this Agreement is approved by our Credit Department. You acknowledge that our Credit Department maintains a list of business types that are unqualified for our Services. We reserve the right to immediately terminate your account if it has been inadvertently boarded notwithstanding such Credit policies.

**30.2.** The initial term of this Agreement shall commence and shall continue in force for three years after it becomes effective. Thereafter, it shall continue until we or you terminate this Agreement upon written notice to the other, or as otherwise authorized by this Agreement. Should you fail to notify us in writing of your request to terminate you acknowledge and agree you will continue to be charged fees pursuant to this Agreement notwithstanding non-use of your account. If you have an equipment lease, termination of this Agreement does not terminate that equipment lease.

**30.3.** Notwithstanding the above or any other provisions of this Agreement, we may terminate this Agreement at any time and for any reason by providing 30 days' advance notice to you. We may terminate this Agreement immediately or with shorter notice upon an Event of Default as provided under Section 30.4 of this Agreement. In the event we provide notice to you of any new fees or increases in existing fees for Services, pursuant to Section 25.5, you may terminate this Agreement without further cause or penalty by notifying us that you are terminating this Agreement prior to the effective date of such new fees or increases. However, maintaining your merchant account, or your continued use of the Services after the effective date of any such fee changes shall be deemed your acceptance of such fee changes for the Services, throughout the term of this Agreement.

**30.4.** If any of the following events shall occur (each an "Event of Default"):

**30.4.1.** a material adverse change in your business, financial condition, or business prospects; or

**30.4.2.** any assignment or transfer of voting control of you or your parent; or

**30.4.3.** a sale of all or a substantial portion of your assets; or

**30.4.4.** irregular Card sales by you, excessive Chargebacks, noncompliance with any applicable data security standards, as determined by Servicers, or any Card Organization, or any other Person, or an actual or suspected data security breach, or any other circumstances which, in our sole discretion, may increase our exposure for your Chargebacks or otherwise present a financial or security risk to us; or

**30.4.5.** any of your representations, warranties or covenants in this Agreement are breached in any respect; or

**30.4.6.** you default in any material respect in the performance or observance of any term, condition or agreement contained in this Agreement, including, without limitation, the establishment or maintenance of funds in a Reserve Account, as detailed in Section 25; or

**30.4.7.** you default in any material respect in the performance or observance of any term, covenant or condition contained in any agreement with any of our respective Affiliates; or

**30.4.8.** you default in the payment when due, of any material indebtedness for borrowed money; or

**30.4.9.** you file a petition or have a petition filed by another party under the U.S. bankruptcy code or any other laws relating to bankruptcy, insolvency or similar arrangement for adjustment of debts; consent to or fail to contest in a timely and appropriate manner any petition filed against you in an involuntary case under such laws; apply for or consent to, or fail to contest in a timely and appropriate manner, the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator

of you or of a substantial part of your property; or make a general assignment for the benefit of creditors; or take any action for the purpose of authorizing any of the foregoing; or

**30.4.10.** your independent certified accountants shall refuse to deliver an unqualified opinion with respect to your annual financial statements and your consolidated subsidiaries; or

**30.4.11.** a violation by you of any applicable law or Card Organization Rule or our reasonable belief that termination of this Agreement or suspension of Services is necessary to comply with any law including without limitation the rules and regulations promulgated by the Office of Foreign Assets Control of the U.S. Department of the Treasury or your breach, as determined by Servicers, of Section 39.2 ("Compliance with Laws"), then, upon the occurrence of (1) an Event of Default specified in subsections 30.4.4, 30.4.9 or 30.4.11, we may consider this Agreement to be terminated immediately, without notice, and all amounts payable hereunder shall be immediately due and payable in full without demand or other notice of any kind, all of which are expressly waived by you, and (2) any other Event of Default, this Agreement may be terminated by us giving not less than 10 days' notice to you, and upon such notice all amounts payable hereunder shall be due and payable on demand.

**30.5.** Neither the expiration nor termination of this Agreement shall terminate the obligations and rights of the parties pursuant to provisions of this Agreement which by their terms are intended to survive or be perpetual or irrevocable. Such provisions shall survive the expiration or termination of this Agreement. All obligations by you to pay or reimburse us for any obligations associated with transactions you have submitted to us will survive termination of this Agreement until finally and irrevocably paid in full and settled.

**30.6.** If any Event of Default occurs, regardless of whether such Event of Default has been cured, we may, in our sole discretion, exercise all of our rights and remedies under applicable law, and this Agreement including, without limitation, exercising our rights under Section 31.

**30.7.** In the event you file for protection under the U.S. bankruptcy code or any other laws relating to bankruptcy, insolvency, assignment for the benefit of creditors or similar laws, and you continue to use our Services, it is your responsibility to open new accounts to distinguish pre and post filing obligations. You acknowledge that as long as you utilize the accounts you established prior to such filing, we will not be able to systematically segregate your post-filing transactions or prevent set-off of the pre-existing obligations. In that event, you will be responsible for submitting an accounting supporting any adjustments that you may claim.

**30.8.** The Card Organizations often maintain merchant lists such as the Member Alert To Control High-risk (Merchants) ("MATCH") who have had their merchant agreements or Card Acceptance rights terminated for cause. If this Agreement is terminated for cause, you acknowledge that we may be required to report your business name and the names and other information regarding its principals to the Card Organizations for inclusion on such list(s). You expressly agree and consent to such reporting if you are terminated as a result of the occurrence of an Event of Default or for any reason specified as cause by Visa, MasterCard, Discover Network, PayPal or American Express. Furthermore, you agree to waive and hold us harmless from and against any and all claims which you may have as a result of such reporting.

**30.9.** After termination of this Agreement for any reason whatsoever, you shall continue to bear total responsibility for all Chargebacks, fees, Card Organization fines imposed on us as a result of your acts or omissions, Credits and adjustments resulting from Card transactions processed pursuant to this Agreement and all other amounts then due or which thereafter may become due under this Agreement.

### 31. Reserve Account; Security Interest

**31.1.** You expressly authorize us to establish a Reserve Account pursuant to the terms and conditions set forth in this Section 31. The amount of such Reserve Account shall be set by us, in our sole discretion, based upon your processing history and the potential risk of loss to us as we may determine from time to time.

**31.2.** The Reserve Account shall be fully funded upon three (3) days' notice to you, or in instances of fraud or suspected fraud or an Event of Default, Reserve Account funding may be immediate. Such Reserve Account may be funded by all or any combination of the following: (i) one or more debits to your Settlement Account or any other accounts held by Bank or any of its Affiliates, at any financial institution maintained in the name of Client, any of its principals, or any of its guarantors, or if any of same are authorized signers on such account; (ii) any payments otherwise due to you; (iii) your delivery to us of a letter of credit; or (iv) if we so agree, your pledge to us of a freely transferable and negotiable certificate of deposit. Any such letter of credit or certificate of deposit shall be issued or established by a financial institution acceptable to us and shall be in a form satisfactory to us. In the event of termination of this Agreement by any party, an immediate Reserve Account may be established without notice in the manner provided above. Any Reserve Account will be held by us for the greater of ten (10) months after termination of this Agreement or for such longer period of time as is consistent with our liability for your Card transactions and Chargebacks in accordance with Card Organization Rules. We will hold funds pursuant to this Section 31 in master account(s) with your funds allocated to separate sub accounts. Unless specifically required by law, you shall not be entitled to interest on any funds held by us in a Reserve Account.

**31.3.** If your funds in the Reserve Account are not sufficient to cover the Chargebacks, adjustments, fees and other charges and amounts due from you, or if the funds in the Reserve Account have been released, you agree to promptly pay us such sums upon request.

**31.4.1.** To secure your obligations to us and our respective Affiliates under this Agreement and any other agreement for the provision of equipment, products or services (including any obligations for which payments on account of such obligations are subsequently



invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any bankruptcy act, state or federal law, common law or equitable cause), you grant to us a first priority lien and security interest in and to (i) the Reserve Account and (ii) any of your funds pertaining to the Card transactions contemplated by this Agreement now or hereafter in our possession, whether now or hereafter due or to become due to you from us. Any such funds, money or amounts now or hereafter in our possession may be commingled with other funds of ours, or, in the case of any funds held pursuant to the foregoing paragraphs, with any other funds of other customers of ours. In addition to any rights now or hereafter granted under applicable law and not by way of limitation of any such rights, we are hereby authorized by you at any time and from time to time, without notice or demand to you or to any other Person (any such notice and demand being hereby expressly waived), to set off, recoup and to appropriate and to apply any and all such funds against and on account of your obligations to us and our respective Affiliates under this Agreement and any other agreement with us our respective Affiliates for any related equipment or related services (including any check services), whether such obligations are liquidated, unliquidated, fixed, contingent, matured or unmatured. You agree to duly execute and deliver to us such instruments and documents as we may reasonably request to perfect and confirm the lien, security interest, right of set off, recoupment and subordination set forth in this Agreement.

**31.4.2.** For sake of clarification and notwithstanding anything in the Agreement to the contrary, in the event Servicers deduct, holdback, suspend, off set or set off any settlement monies or amounts otherwise due you pursuant to the terms of this Agreement (collectively "Set Off Funds"), you acknowledged that such Set Off Funds will be held in a commingled Reserve Account(s) of Servicers.

**31.4.3.** If in replacement of or in addition to the first priority lien and security interest in the Reserve Account, you grant to Servicers a first priority lien and security interest in and to one or more certificates of deposit, the certificates of deposit shall be uncertificated and shall be subject to an Acknowledgement of Pledge of Certificate of Deposit and Control Agreement (the "Certificate of Deposit Control Agreement") by, between and among Customers, Servicers and the financial institution that has established and issued the certificate of deposit. The form of the Certificate of Deposit Control Agreement and the financial institution that will establish and issue the certificate of deposit shall be satisfactory and acceptable to Servicers.

## 32. Financial and Other Information

**32.1.** Upon request, you will provide us and our Affiliates, quarterly financial statements within 45 days after the end of each fiscal quarter and annual audited financial statements within 90 days after the end of each fiscal year. Such financial statements shall be prepared in accordance with generally accepted accounting principles. You will also provide such other financial statements and other information concerning your business and your compliance with the terms and provisions of this Agreement as we may reasonably request. You authorize us and our Affiliates to obtain from third parties financial and credit information relating to you in connection with our determination whether to accept this Agreement and our continuing evaluation of your financial and credit status. We may also access and use information which you have provided to Bank for any other reason. Upon request, you shall provide, and/or cause to be provided, to us and our Affiliates, or our representatives or regulators (as well as those of the Card Organizations) reasonable access to your or your providers' facilities and records for the purpose of performing any inspection and/or copying of books and/or records deemed appropriate. In such event, you shall pay the costs incurred by us or our Affiliates for such inspection, including, but not limited to, costs incurred for airfare and hotel accommodations.

**32.2.** You will provide us with written notice of any judgment, writ, warrant of attachment, execution or levy against any substantial part (25% or more in value) of your total assets not later than three (3) days after you become aware of same.

## 33. Indemnification

**33.1.** You agree to indemnify and hold us and the Card Organizations harmless from and against all losses, liabilities, damages and expenses: (a) resulting from the inaccuracy or untruthfulness of any representation or warranty, breach of any covenant or agreement or any misrepresentation by you under this Agreement; (b) arising out of your or your employees' or your agents' negligence or willful misconduct, in connection with Card transactions or otherwise arising from your provision of goods and services to Cardholders; (c) arising out of your use of the Services; or (d) arising out of any third party indemnifications we are obligated to make as a result of your actions (including indemnification of any Card Organization or Issuer).

**33.2.** Subject to the limitations set forth in Section 27.4, we agree to indemnify and hold you harmless from and against all losses, liabilities, damages and expenses resulting from any breach of any warranty, covenant or agreement or any misrepresentation by us under this Agreement or arising out of our or our employees' gross negligence or willful misconduct in connection with this Agreement; provided that this indemnity obligation shall not apply to Bank with respect to Non-Bank Services.

## 34. Special Provisions Regarding Non-Bank Cards

**34.1.** Non-Bank Card transactions are provided to you by Processor and not by Bank and include transactions made using Discover Network, PayPal, American Express, Voyager and WEX Card types. The Services provided, transactions processed and other matters contemplated under this Section 34 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 34 directly conflict with another provision of this Agreement, in which case the terms of this Section 34 will control; provided, however, that (i) Bank is not a party to this Agreement insofar as it relates to Non-Bank Card services, and Bank is not liable to you in any way with respect to such Services and (ii) you agree to pay Processor any per item processing, authorization and other fees described in the

Application for any non-acquired transaction services you receive from Processor. For the purposes of this section, the words "we," "our" and "us" refer only to the Processor and not to the Bank. You authorize us to share information from your Application with American Express, Discover Network, PayPal and any other Non-Bank Card Organization.

**34.2. If you accept American Express,** you understand that if, based upon your anticipated Card transaction volume you do not qualify for our full service program but have otherwise been approved for accepting American Express transactions, your authorizations will be obtained from and funded by American Express. American Express will provide you with its own agreement that governs those transactions. You understand and agree that we are not responsible and assume absolutely no liability with regard to any such transactions, including but not limited to the funding and settlement of American Express transactions, and that American Express will charge additional fees for the services they provide.

**34.3. If you accept Discover** but do not qualify for our Discover full service program, Discover will provide you with its own agreement that governs those transactions. You understand and agree that we are not responsible and assume absolutely no liability with regard to any such transactions, including but not limited to the authorization, funding, and settlement of Discover transactions, and that Discover may charge additional fees for the services they provide.

**34.4. If you accept PayPal Cards** you understand that the following requirements apply to PayPal Card transactions in addition to the information required in this Agreement:

- Only in-store, Card present transactions are eligible for processing under this Agreement. Card not present/online, cash over, cash advance, quasi cash transactions, international transactions or manually entered transactions are not eligible for processing. You must contact us or PayPal for information related to services that are not covered in this Agreement.
- You will provide us with information about the Card transactions you conduct; including, data related to your Authorization requests, Card transactions, and transaction dispute responses.
- You will provide us with aggregate and individual information about the Card transactions you accept; including, the number, type and kind of transactions you conduct, your disputes, your business operations, your merchant category code information, and any other information you are required to provide under this Agreement.
- You will not use, store, retain or otherwise disclose any of PayPal's confidential information, Cardholder data, magnetic stripe track data, or PayPal Card transaction data (other than as necessary to complete a transaction).
- You will not use PayPal Cardholder's personal information for marketing and/or other purposes without explicit consent from the Cardholder.

**34.5. If you accept JCB, Diners Club International, UnionPay, BCard, and Dinacard,** you agree to be bound by the Discover Network provisions of this Agreement. You also acknowledge and agree that JCB, Diners Club International, UnionPay, BCard, and Dinacard transactions will be processed under and subject to Discover Network Card Organization Rules.

**34.6. If you accept Voyager and/or WEX Cards,** you agree to be bound by the WEX and/or Voyager rules. You also agree to be bound by all other provisions of this Agreement which are applicable to WEX and/or Voyager.

**34.7. If you execute a separate WEX Merchant Agreement** (WEX Non Full Service Program), you understand that we will provide such agreement to WEX, but that neither we nor WEX shall have any obligation whatsoever to you with respect to processing WEX Cards unless and until WEX executes your WEX Merchant Agreement. If WEX executes your WEX Merchant Agreement and you accept WEX Cards, you understand that WEX transactions are processed, authorized and funded by WEX. You understand that WEX is solely responsible for all agreements that govern WEX transactions and that we are not responsible and assume absolutely no liability with regard to any such agreements or WEX transactions, including but not limited to the funding and settlement of WEX transactions. You understand that WEX will charge additional fees for the services that it provides.

**34.8. In addition to the information stated in Part I, Appendix I of the Your Payments Acceptance Guide regarding Voyager Cards, the following terms apply**

- Under Section 27 (Representations; Warranties; Covenants; Limitations of Liability; Exclusion of Consequential Damages) of the General Terms, in no event shall our cumulative liability to you for losses, claims, suits, controversies, breaches or damages for any cause whatsoever in connection with Voyager transactions exceed the lesser of \$10,000.00 or the Voyager transaction fees paid by you to us for the two months prior to the action giving rise to the claim.
- Notwithstanding anything in this Agreement to the contrary, our obligation to provide services to you relating to any Fleet Card will terminate automatically without penalty to us or the related Card Organization upon the earlier of (i) the termination or expiration of our agreement with such Card Organization, (ii) at least twenty (20) days prior written notice by us to you; (iii) your failure to comply with material terms relating to such Fleet Card transactions, or (iv) written notice, if a Card Organization terminates its Card

## 35. Special Provisions for Debit Card

The special provisions outlined in this Section 35 apply only to those Debit Card transactions that are processed by a Cardholder entering a PIN unless the transaction is a network supported PINless transaction. A PINless transaction is a Debit card transaction that a merchant submits to us for settlement/funding transactions with neither a PIN nor Signature. The Services provided, transactions processed and other matters contemplated under this Section 35 are subject to the rest of this Agreement, as applicable, except to the

extent the terms of this Section 35 directly conflict with another provision of this Agreement, in which case the terms of this Section 35 will control.

**35.1. Debit Card Acceptance.** Most, but not all, ATM Cards (Debit Cards) can be accepted at the point of sale at participating locations. Examine the back of the Debit Card to determine if the Card participates in a PIN Debit network that you are authorized to accept. PIN Debit network Mark(s) are usually printed on the back of the Card. If the Debit Card is valid and issued by a financial institution Issuer participating in a PIN Debit network, you must comply with the following general requirements for all participating PIN Debit networks, in addition to the specific requirements of that PIN Debit network:

- You must honor all valid Debit Cards when presented that bear authorized PIN Debit network Marks.
- You must treat transactions by Cardholders from all Issuers in the same manner.
- You may not establish a minimum or maximum transaction amount for Debit Card acceptance.
- You may not require additional information, besides the PIN, for the completion of the transaction unless the circumstances appear suspicious. A signature is not required for Debit Card transactions.
- You shall not disclose transaction related information to any party other than your agent, a PIN Debit network, or Issuer and then only for the purpose of settlement or error resolution.

**35.2. Transaction Processing.** The following general requirements apply to all Debit Card transactions:

- All Debit Card transactions must be authorized and processed electronically. There is no Voice Authorization or Imprinter procedure for Debit Card transactions.
- You may not complete a Debit Card transaction that has not been authorized. If you cannot obtain an Authorization at the time of sale, you should request another form of payment from the Cardholder or process the transaction as a Store and Forward or Resubmission, in which case you assume the risk that the transaction fails to authorize or otherwise declines. The Cardholder should be instructed to contact the Issuer to find out why a transaction has been declined.
- The Debit network used to process your debit transaction will depend upon, among other things, our own business considerations, the availability of the Debit network at the time of the transaction and whether a particular Debit Card is enabled for a particular Debit network. The Debit network used to route your transaction may or may not be the lowest cost network available. We may, in our sole discretion (i) use any Debit network available to us for a given transaction (including any of our affiliated PIN Debit networks) and (ii) add and/or remove Debit networks available to you based on a variety of factors including availability, features, functionality and our own business considerations.
- You must issue a receipt to the Cardholder upon successful completion of a transaction and effect PAN Truncation on it.
- You may not manually enter the account number for PIN Debit transactions. Signature Debit transaction may be key entered if you are unable to swipe the Card. The account number must be read electronically from the Magnetic Stripe/chip for transactions authenticated with a PIN. If the Magnetic Stripe/chip is unreadable, you must request another form of payment from the Cardholder. Do obtain a signature if PIN authentication is not supported or available.
- Any applicable tax must be included in the total transaction amount for which Authorization is requested. Tax may not be collected separately in cash.
- **YOU ARE RESPONSIBLE FOR SECURING YOUR POS DEVICES AND FOR IMPLEMENTING APPROPRIATE CONTROLS TO PREVENT EMPLOYEES OR OTHERS FROM SUBMITTING CREDITS AND VOIDS THAT DO NOT REFLECT BONA FIDE RETURNS OR REIMBURSEMENTS OF PRIOR TRANSACTIONS.**

**35.3. Cash Back From Purchase.** You may offer cash back to your customers when they make a PIN Debit Card purchase. You may set a minimum and maximum amount of cash back that you will allow. If you are not currently offering this service, your POS device may require additional programming to begin offering cash back as long as it is supported by the Debit Network.

**35.4. Settlement.** You must reconcile your accounts for each location daily and notify us within 24 hours of any issues.

**35.5. Adjustments.** An adjustment is a transaction that is initiated to correct a Debit Card transaction that has been processed in error. For signature debit transactions (including "no signature" signature debit transactions), both the Cardholder and the card issuing bank have the right to question or dispute a transaction. If these questions or disputes are not resolved, a chargeback may occur. You are responsible for all adjustment and Chargeback fees that may be charged by a Debit network. **There are several reasons for adjustments being initiated:**

- The Cardholder was charged an incorrect amount, whether too little or too much.
- The Cardholder was charged more than once for the same transaction.
- A processing error may have occurred that caused the Cardholder to be charged even though the transaction did not complete normally at the point of sale.
- A Cardholder is disputing the goods or services provided.

All parties involved in processing adjustments and Chargebacks are regulated by time frames that are specified in the operating rules of the applicable Debit network. The Electronic Funds Transfer Act, Regulation E, and other applicable law.

## 36. Special Provisions Regarding EBT Transactions

If you elect to accept EBT Cards and engage in EBT transactions, the terms and conditions of this Section 36 shall apply.

EBT transactions are provided to you by Processor and not by Bank. The Services provided, transactions processed and other matters contemplated under this Section 30 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 30 directly conflict with another section of this Agreement, in which case the terms of this Section 30 will control; provided, however, that Bank is not a party to this Agreement insofar as it relates to EBT transactions, and Bank is not liable to you in any way with respect to such Services. For the purposes of this section, the words "we," "our" and "us" refer only to the Processor and not to the Bank.

We offer electronic interfaces to EBT networks for the processing, settlement and switching of EBT transactions initiated through the use of a state-issued EBT card ("EBT Card") at your POS Terminal(s) for the provision of United States Department of Agriculture, Food and Nutrition Service ("FNS"), Supplemental Nutrition Assistance Program ("SNAP") and Women, Infants and Children Benefits ("WIC Benefits") and/or government delivered Cash Benefits (Cash Benefits, together with FNS, SNAP and WIC Benefits, collectively are referred to as the "EBT benefits") to EBT benefit recipients ("EBT customers"), subject to the terms below.

**36.1. Acceptance of EBT Benefits.** You agree to accept EBT Cards and provide EBT benefits to EBT customers through the use of a POS Terminals, PIN pad and printer or other equipment that meet standards as set forth in the EBT Rules ("Authorized Terminal") applicable to such EBT benefits during your normal business hours, in a manner consistent with your normal business practices and in accordance with the EBT Rules.

You will provide EBT benefits to EBT customers, in accordance with the procedures set forth in the EBT Rules, in the amount authorized through your Authorized Terminal upon presentation by an EBT customer of an EBT Card and such EBT customer's entry of a valid PIN. The "EBT Rules" means (i) all procedures that we establish and provide to you from time-to-time regarding your acceptance of EBT Cards and provision of EBT benefits to EBT customers; (ii) the Quest Rules, as amended from time-to-time, issued by the National Automated Clearing House Association and as approved by the Financial Management Service of the U.S. Treasury Department, as necessary (and any rules that succeed or replace the Quest Rules); and (iii) other such laws, rules, regulations and procedures that are applicable to the acceptance of EBT Cards and the provision of EBT benefits by you under this Section 30, including without limitation, laws pertaining to delivery of services to EBT customers and EBT customer confidentiality, the federal Civil Rights Act of 1964, Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, Clean Air Act, Clean Water Act, Energy Policy and Conservation Act, Immigration Reform and Control Act of 1986, regulations issued by the Department of Agriculture pertaining to Food Stamp Program, and, any additional procedures specified by the state regarding lost EBT Cards, forgotten PINs, discrepancies in benefits authorized and similar matters by providing EBT customers with information such as telephone numbers and addresses of the state or other appropriate agencies. The "Food Stamp Program" is the government benefits program operated under the authority of the Food Stamp Act of 1964.

If the Authorized Terminal fails to print EBT benefit issuance information as approved and validated as a legitimate transaction, you will comply with the procedures set forth in the EBT Rules for authorization of EBT benefits in such instance. You are solely responsible for your provision of EBT benefits other than in accordance with authorizations timely received from EBT service provider. You will not resubmit any EBT Card transaction except as specifically permitted by the EBT Rules and procedures applicable to such EBT Card transaction. You must provide a receipt for each EBT transaction to the applicable EBT customer.

You will not accept any EBT Card for any purpose other than providing EBT Benefits, including without limitation accepting an EBT Card as security for repayment of any EBT customer obligation to you. In the event of any violation of this provision, you will be obligated to reimburse the state or us for any EBT benefits unlawfully received by either you or an EBT customer to the extent permitted by law. Cash should never be dispensed for FNS, SNAP and WIC Benefits.

**36.2. Manual EBT Vouchers.** In accordance with the procedures set forth in this Section 30 and the EBT Rules, you will manually accept EBT Cards during periods of time when your Authorized Terminal is not working or the EBT system is not available; you will manually provide EBT benefits in the amount authorized through the applicable EBT service provider to the EBT customers at no cost to the EBT customers upon presentation by an EBT customer of his/her EBT Card. All manual voucher authorizations must be cleared on your POS terminal for payment of voucher to be made to you. In addition to any procedures set forth in the EBT Rules, the following limitations will apply to manual issuance of FS Benefits by merchant:

- An authorization number for the amount of the purchase must be received by you from the applicable EBT service provider while the respective EBT customer is present and before you provide such EBT customer with any FNS, SNAP and WIC Benefits, or Cash Benefits, as applicable. You must not attempt to voice authorize a manual EBT transaction if the EBT customer is not present to sign the voucher. The EBT customer must sign the voucher. A copy of the voucher should be given to the EBT customer at the time of authorization and you should retain one copy for your records.
- Specified EBT customer, clerk and sales information, including the telephone authorization number, must be entered properly and legibly on the manual sales draft.
- All manual voucher authorizations must be cleared on your Authorized Terminal before payment of voucher will be made to you. Vouchers must be cleared within 10 Business Days after the date of applicable voice authorization. Vouchers cannot be cleared by any manner except by your Authorized Terminal therefore you should never mail vouchers

requesting payment. If a voucher expires before it has been cleared by your Authorized Terminal for payment, no further action can be taken to obtain payment for the voucher.

iv. In the event that, due to EBT host failure, EBT benefit availability for an EBT customer cannot be determined at the time you request authorization, the maximum authorized manual transaction and benefit encumbrance will be \$40.00 or such other state specific floor limit as set forth in the most current version of the applicable EBT Rules.

v. Except as specifically provided in the applicable EBT Rules, you will not be reimbursed and will be solely responsible for a manual transaction when you fail to obtain an authorization number from the applicable EBT service provider as set forth in this Section 36 or otherwise fail to process the manual transaction in accordance with the EBT Rules.

vi. If you have not received an authorization number in accordance with paragraph 36.1 above, you may not "re-submit" a manual sales draft for payment for the same transaction.

**36.3. Acceptance of Cash Benefits.** If you agree to accept EBT Cards and to provide Cash Benefits, you agree to maintain adequate cash on hand to issue EBT service provider authorized Cash Benefits and will issue such Cash Benefits to EBT customers in the same manner and to the same extent cash is provided to your other customers. You may not require, and may not in your advertising suggest, that any EBT customers must purchase goods or services from you as a condition to receiving Cash Benefits, unless such condition applies to other customers as well. You may not designate and direct EBT customers to special checkout lanes restricted to use by EBT customers unless you also designate and direct other customers to special checkout lanes for Debit Cards or Credit Cards and/or other payment methods such as checks other than cash.

**36.4. Interoperability.** If you accept EBT Cards and provide EBT benefits (FNS, SNAP and WIC Benefits and/or Cash Benefits), you must do so for EBT customers from all states.

**36.5. Required Licenses.** If you provide FNS, SNAP and WIC Benefits under this Agreement, you represent and warrant to us that you are a FNS authorized merchant and are not currently disqualified or withdrawn from redeeming food stamp coupons or otherwise disqualified or withdrawn by FNS. You agree to secure and maintain at your own expense all necessary licenses, permits, franchises, or other authorities required to lawfully effect the issuance and distribution of EBT benefits under this Agreement, including without limitation, any applicable franchise tax certificate and non-governmental contractor's certificate, and covenant that you will not accept EBT Cards or provide EBT benefits at any time during which you are not in compliance with the requirements of any EBT Rules.

**36.6. Term and Termination.** If you are disqualified or withdrawn from the Food Stamp Program, your authority to issue benefits will be terminated concurrently therewith. Such disqualification or withdrawal will be deemed a breach of this Agreement with respect to your authority to issue Cash Benefits and, in the event of such disqualification, we have the right to immediately terminate the provision of service under this Section 30 or the Agreement in its entirety. With respect to the issuance of Cash Benefits only, your authority to issue Cash Benefits may be suspended or terminated immediately at the sole discretion of us, the state or its EBT service provider, effective upon delivery of a notice of suspension or termination specifying the reasons for such suspension or termination if there will be (i) any suspension, injunction, cessation, or termination of the EBT service provider's authority to provide EBT services to the state; (ii) failure by you, upon not less than thirty (30) days' prior written notice, to cure any breach by you of these terms and conditions, including without limitation, your failure to support the issuance of EBT benefits during your normal business hours consistent with your normal business practices, your failure to comply with EBT benefit issuance procedures, your impermissible acceptance of an EBT Card, or your disqualification or withdrawal from the Food Stamp Program; or (iii) based on a state's or its EBT service provider's investigation of the relevant facts, evidence that you or any of your agents or employees are committing, participating in, or have knowledge of fraud or theft in connection with the dispensing of EBT benefits. If you fail to cure any breach as set forth above, you may appeal such suspension or termination to the applicable state for determination in its sole discretion.

In the event that your authority to accept benefits is suspended or terminated by a state or its EBT service provider, and you successfully appeal such suspension or termination to the state or its EBT service provider, we shall be under no obligation to reinstate the services previously provided under this Section 30 or the Agreement, as applicable.

The provision of services under this Section 30 shall terminate automatically if our agreement or our service provider's agreement with any applicable state's EBT service provider terminates for any reason.

You will give prompt notice to us if you plan to stop accepting EBT Cards and providing EBT benefits or if you are unable to comply with the terms of this Section 36.

**36.7. Confidentiality of EBT System Information.** All information related to EBT customers and/or the issuance of EBT benefits shall be considered confidential information.

Individually identifiable information relating to an EBT customer or applicant for EBT benefits will be held confidential and will not be disclosed by you or your directors, officers, employees or agents, without prior written approval of the applicable state.

You will: (a) implement appropriate measures designed to: (1) ensure the security and confidentiality of all non-public personal information or materials regarding customers ("NPPI"); (2) protect against any anticipated threats or hazards to the security or integrity of NPPI; (3) protect against unauthorized access to or use of NPPI that could result in substantial harm or inconvenience to any customer and (4) ensure the proper disposal of NPPI; and (b) take appropriate actions to address incidents of unauthorized access to NPPI, including notification to us as soon as possible.

The use of information obtained by you in the performance of your duties under this Section 36 will be limited to purposes directly connected with such duties.

**36.8. EBT Service Marks.** You will adequately display any applicable state's service Marks or other licensed marks, including the Quest Marks, and other materials supplied by us (collectively the "Protected Marks") in accordance with the standards set by the applicable state. You will use the Protected Marks only to indicate that EBT benefits are issued at your location(s) and will not indicate that we, any state or its EBT service provider endorse your goods or services. Your right to use such Protected Marks pursuant to this Agreement will continue only so long as this Section 36 remains in effect or until you are notified by us, any state or its EBT service provider to cease their use or display. You will not use the Marks of any EBT service provider without prior written approval from such EBT service provider.

**36.9. Miscellaneous.**

**36.9.1. Errors.** You will fully cooperate with us and any other participants in the EBT system in the resolution of errors and disputes regarding EBT transactions processed pursuant to this Section 36. You will promptly notify us of any such errors or disputes.

**36.9.2. Issuance Records.**

i. You agree to make available such informational materials as may be required by the state, its EBT service provider or any applicable regulations pertaining to the issuance of Benefits.

ii. You will retain all EBT-related records (including but not limited to manual sales drafts or vouchers) in the manner required by the EBT Rules or otherwise reasonably requested by us for three (3) years following the date of the applicable EBT transaction, or for such additional period as may be required by the EBT Rules. Records involving matters in litigation will be kept by you for a period of not less than three (3) years following the termination of the applicable litigation. Copies of any documents in media other than paper (e.g., microfilm, etc.) related to this Section 30 may be substituted for the originals to the extent permitted under applicable EBT Rules and provided that legible paper copies can be reproduced within a reasonable time after such records are requested.

iii. You will make all EBT-related records available for audit upon request to representatives of the state or its EBT service provider, or other authorized state or federal government agency during normal business hours.

iv. To assure compliance with this Agreement, including without limitation this Section 30, the state, its EBT service provider, or other authorized state or federal government agency, will at all times, upon advance notice except in the case of suspected fraud or other similar activity, have the right to enter, during normal business hours, your premises to inspect or evaluate any work performed under this Agreement, or to obtain any other information required to be provided by you or otherwise related to this Agreement.

**36.9.3. Training.** You will train and permit your employees to receive training regarding the issuance of EBT benefits.

**36.9.4. Amendments.** Notwithstanding anything to the contrary in this Agreement, if any of these terms and conditions are found to conflict with the EBT Rules or federal or state policy, these terms and conditions are subject to reasonable amendment by us, a state or its EBT service provider to address such conflict upon written notice to you and such amendment shall become effective upon such notice.

**36.9.5. State Action.** Nothing contained herein shall preclude a state from commencing appropriate administrative or legal action against you or for making any referral for such action to any appropriate federal, state, or local agency.

**36.9.6. Reference to State.** Any references to state herein will mean the state in which you accept EBT benefits pursuant to this Section 36. If you accept EBT benefit in more than one state pursuant to this Section 36, then the reference will mean each such state severally, not jointly.

**36.9.7. Third Party Beneficiaries.** These terms and conditions, do not create, and will not be construed as creating, any rights enforceable by any person not having any rights directly under this Agreement, except that the state and its Issuer, as defined in the Quest Rules, will be deemed third party beneficiaries of the representations, warranties, covenants and agreements made by you under the Agreement, including without limitation this Section 36.

## 37. Special Provisions Regarding Wireless Service

If you elect to purchase the Wireless Services from us as indicated on the Application, then the following terms and conditions of this Section 37, referred to as the "Wireless Services Terms," shall apply. THE WIRELESS SERVICES ARE BEING SOLD TO YOU FOR USE IN BUSINESS AND ARE NOT BEING SOLD TO YOU FOR HOUSEHOLD OR PERSONAL USE. Sale of Wireless Services is made by Processor and not the Bank. The Services provided, transactions processed and other matters contemplated under this Section 37 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 37 directly conflict with another section of this Agreement, in which case the terms of this Section 37 will control; provided, however, that Bank is not a party to this Agreement insofar as it relates to Wireless Services, and Bank is not liable to you in any way with respect to such services. For the purposes of this section, the words "we," "our" and "us" refer only to the Processor and not to the Bank.

Through one or more third party vendors ("Wireless Vendor(s)") selected by us in our sole discretion, we have acquired the right to resell certain wireless data communication services that use radio base stations and switching offered by certain cellular telephone and data networks throughout the country (the "Wireless Networks") in order to allow you to capture and transmit to Processor and Bank certain wireless Card Authorization transactions or to transmit other communications to our system ("Wireless Services").

If you elect to purchase voice and/or data services directly from a third party provider for use with the Wireless Equipment as permitted by Processor, you acknowledge and agree that this Agreement does not address or govern those voice and/or data services or your relationship with that third party provider, and Servicers are in no way responsible for providing, maintaining, servicing or supporting such third party voice and/or data services.

**37.1. Purchase of Wireless Services.** The prices that you will pay for the Wireless Services are set forth on the Application. In connection with your purchase of Wireless Services, you will receive access to a certain Wireless Network(s).

- Licenses. You agree to obtain any and all licenses, permits or other authorizations required by the Federal Communications Commission ("FCC") or any other regulatory authority, if any, for the lawful operation of Wireless Equipment used by you in connection with your receipt of Wireless Services. You will promptly provide us with all such information as we may reasonably request with respect to matters relating to the rules and regulations of the FCC.
- Wireless Equipment. You agree that in order to access the Wireless Services, you must use wireless POS Terminals and accessories approved for use with the Wireless Services by Processor from time to time in its sole discretion (the "Wireless Equipment"). If Wireless Equipment is purchased by you from us as indicated on the Application, then the terms of this Agreement apply to your use of such Wireless Equipment.
- Improvements/General Administration. We and the Wireless Vendor(s) reserve the right to make changes, from time to time, in the configuration of the Wireless Services, Wireless Networks, Wireless Equipment, Wireless Software, rules of operation, accessibility periods, identification procedures, type and location of equipment, allocation and quantity of resources utilized, programming languages, administrative and operational algorithms and designation of the control center serving you at the particular address. In addition, we reserve the right to schedule, from time to time, interruptions of service for maintenance activities.
- Suspension of Wireless Services. We or a Wireless Network may suspend the Wireless Services to: (a) prevent damages to, or degradation of, our or a Wireless Network's network integrity that may be caused by a third party; (b) comply with any law, regulation, court order or other governmental request which requires immediate action; or (c) otherwise protect us or a Wireless Network from potential legal liability. To the extent commercially reasonable, we shall give notice to you before suspending the Wireless Services to you. If not commercially reasonable to give prior notice, we will give notice to you as soon as commercially practicable thereafter. Availability of the Wireless Services may vary due to events beyond the control of us or our Wireless Vendors. In the event of a suspension of the Wireless Services, we or the applicable Wireless Vendor will promptly restore the Wireless Services after the event giving rise to the suspension has been resolved.

**37.2. Software Licenses.** Processor hereby grants to you a non-exclusive, non-transferable, revocable limited sublicense to use any wireless software (including any documentation relating to or describing the wireless software) downloaded by you or your designee from Processor's systems onto the Wireless Equipment in connection with your purchase and use of the Wireless Services in accordance with the terms of this Agreement, including this Section 37. Anything in this Agreement to the contrary notwithstanding, we or certain third parties retain all ownership and copyright interest in and to all Wireless Software, related documentation, technology, know-how and processes embodied in or provided in connection with the Wireless Software, and you shall have only a nonexclusive, non-transferable license to use the Wireless Software in your operation of the Wireless Equipment for the purposes set forth in this Agreement. Nothing in this Agreement confers any title or ownership of any such Wireless Software to you or shall be construed as a sale of any rights in any such Wireless Software to you. You agree to accept, agree to and be bound by all applicable terms and conditions of use and other license terms applicable to such Wireless Software. You shall not reverse engineer, disassemble or decompile the Wireless Software. You shall not give any Person access to the Wireless Software without our prior written consent. Your obligations under this Section 37.2 shall survive the termination of this Agreement. You acknowledge that the only right you obtain to the Wireless Software is the right to use the Wireless Software in accordance with the terms in this Section.

**37.3. Limitation on Liability.** We shall have no liability for any warranties by any party with respect to uninterrupted Wireless Services, as set forth in Section 37.10, or for any Person's unauthorized access to Client's data transmitted through either the Wireless Equipment or Wireless Services (including the Wireless Software), or Wireless Networks, regardless of the form of action (whether in contract, tort (including negligence), strict liability or otherwise). The foregoing notwithstanding, for any other liability arising out of or in any way connected with these Wireless Services terms, including liability resulting solely from loss or damage caused by partial or total failure, delay or nonperformance of the Wireless Services or relating to or arising from your use of or inability to use the Wireless Services, Processor's, Bank's, and Wireless Vendor(s)' liability shall be limited to your direct damages, if any, and, in any event, shall not exceed the lesser of the amount paid by you for the particular Wireless Services during any period of failure, delay, or nonperformance of the Wireless Services or \$50,000.00. In no event shall Servicers, Wireless Vendor(s) or our respective Affiliates be liable for any indirect incidental, special, consequential or punitive damages. The remedies available to you under these Wireless Services Terms will be your sole and exclusive remedies with respect to the Wireless Services.

**37.4. Indemnification.** In addition to any other indemnifications as set forth in this Agreement, you will indemnify and hold Servicers, Wireless Vendor(s) and our respective officers, directors, employees, and Affiliates harmless from and against any and all losses, claims, liabilities, damages, costs or expenses arising from or related to: (a) the purchase, delivery, acceptance, rejection, ownership, possession, use condition, liens against, or return of the Wireless Equipment or the Wireless Software (including the Wireless Software), as applicable; (b) your negligent acts or omissions; (c) any breach by you of any of your

obligations under this Section 37; or (d) any Person's unauthorized access to Client's data and/or unauthorized financial activity occurring on your Merchant Identification Number hereunder, except to the extent any losses, liabilities, damages or expenses result from our gross negligence or willful misconduct.

**37.5. Confidentiality.** All information or materials which could reasonably be considered confidential or competitively sensitive that you access from or relate to either Wireless Vendor(s) or Servicers related to the subject matter of these Wireless Services Terms will be considered confidential information. You will safeguard our confidential information with at least the same degree of care and security that you use for your confidential information, but not less than reasonable care.

**37.6. Termination.** In addition to any other provision in this Agreement, the Wireless Services being provided under this Section 37 may terminate:

- a) Immediately upon termination of the agreement between us (or our Affiliates) and Wireless Vendor(s), provided that we will notify you promptly upon our notice or knowledge of termination of such agreement, provided further that if Wireless Vendor(s) loses its authority to operate less than all of the Wireless Services or if the suspension of any authority or non-renewal of any license relates to less than all of the Wireless Services, then these Wireless Services Terms will terminate only as to the portion of the Wireless Services affected by such loss of authority, suspension or non-renewal; or
- b) Immediately if either we or our Affiliates or Wireless Vendor(s) are prevented from providing the Wireless Services by any law, regulation, requirement, ruling or notice issued in any form whatsoever by judicial or governmental authority (including without limitation the FCC).

**37.7. Effect of Termination.** Upon termination of these Wireless Services Terms for any reason, you will immediately pay to us all fees due and owing to us hereunder. If these Wireless Services terms terminate due to a termination of the agreement between us or our Affiliates and Wireless Vendor(s), then we may, in our sole discretion, continue to provide the Wireless Services through Wireless Vendor(s) to you for a period of time to be determined as long as you continue to make timely payment of fees due under these Wireless Services Terms.

**37.8. Third Party Beneficiaries.** Wireless Vendor(s) are third party beneficiaries of these Wireless Services Terms and may enforce its provisions as if a party hereto.

**37.9. Other Applicable Provisions.** You also agree to be bound by all other terms and conditions of this Agreement.

**37.10. Disclaimer.** Wireless Services use radio transmissions, so Wireless Services can't be provided unless your Wireless Equipment is in the range of one of the available Wireless Networks' transmission sites and there is sufficient network capacity available at that moment. There are places, particularly in remote areas, with no service at all. Weather, topography, buildings, your Wireless Equipment, and other conditions we don't control may also cause failed transmissions or other problems. PROCESSOR, BANK, AND WIRELESS VENDOR(S) DISCLAIM ALL REPRESENTATIONS AND WARRANTIES RELATING TO WIRELESS SERVICES. WE CANNOT PROMISE UNINTERRUPTED OR ERROR-FREE WIRELESS SERVICE AND DO NOT AUTHORIZE ANYONE TO MAKE ANY WARRANTIES ON OUR BEHALF.

### 38. Special Provisions Regarding TransArmor<sup>SM</sup> Solution

This Section 38 and the benefits described shall apply only if you subscribe to the TransArmor Solution and pay the applicable fees.

**38.1. Scanning Authority; Scanning Obligations.** You represent and warrant that you have full right, power, and authority to consent for TransArmor Solution to scan for vulnerabilities in the IP address and/or URL and/or domain names identified to us by you for scanning, whether electronically or by any other means, whether during initial enrollment or thereafter. If applicable, you shall obtain all consents and authorizations from any third parties necessary for us or our vendors to perform the TransArmor Solution services, including, without limitation, third party data centers, co-locations and hosts. We will not be required to execute agreements with any such third parties. You agree to defend, indemnify and hold us and our vendors harmless from any third party claim that such access was not authorized. You may use TransArmor Solution and portals only to scan IP addresses, URLs and domain names owned by and registered to you. You understand that your failure to provide a complete list of and complete access to your IP addresses will significantly impair the scanning services and may result in incomplete or inaccurate results. You agree that the TransArmor Solution services hereunder, including without limitation their functionality and contents, constitute confidential information, and your use and/or access to the TransArmor Solution is subject to the terms of confidentiality set forth in this Agreement.

**38.2. Data Collection.** In the course of providing the TransArmor Solution, we may collect information relating to activities on your network (the "Data") including, but not limited to: network configuration, TCP/IP packet headers and contents, log files, malicious codes, and Trojan horses. We retain the right to use the Data or aggregations thereof for any reasonable purpose.

**38.3. Data Protection; Responsibilities of Client.** The data protection portion of the TransArmor Solution ("Data Protection") applies only to card transactions sent from you to us for authorization and settlement pursuant to the Agreement, and specifically excludes electronic check transactions. You are responsible to comply with the following regarding your use of Data Protection:

- a) Data Protection can only be used with an eligible POS device, gateway, interactive voice response system, or similar system or equipment sale device, gateway, that is certified by us for use with Data Protection. If you are uncertain whether your equipment is

eligible or certified, please contact us. It is your responsibility to ensure that you have eligible equipment in order to use Data Protection.

- (b) You must demonstrate and maintain your current PCI DSS compliance certification. Compliance must be validated either by a Qualified Security Assessor (QSA) with corresponding Report on Compliance (ROC) or by successful completion of the applicable PCI DSS Self-Assessment Questionnaire (SAQ) or Report on Compliance (ROC), as applicable, and if applicable to your business, passing quarterly network scans performed by an Approved Scan Vendor, all in accordance with card organization rules and PCI DSS. Use of the Data Protection will not, on its own, cause you to be compliant or eliminate your obligations to comply with PCI DSS or any other Card Organization Rule. You must also ensure that all third parties and software that you use for payment processing comply with the PCI DSS.
- (c) You must deploy Data Protection (including implementing any upgrades to such service within a commercially reasonable period of time after receipt of such upgrades) throughout your systems including replacing existing Card numbers on your systems with Tokens. Full Card numbers must never be retained, whether in electronic form or hard copy.
- (d) You must use the Token in lieu of the Card number for ALL activities subsequent to receipt of the authorization response including, settlement processing, retrieval processing, chargeback and adjustment processing and transaction reviews.
- (e) If you send or receive batch files containing completed Card transaction information to/from us, you must use the service provided by us to enable such files to contain only Tokens or truncated information.
- (f) You must use truncated report viewing and data extract creation within reporting tools provided by us.
- (g) You are required to follow rules or procedures we may provide to you from time to time regarding your use of Data Protection. We will provide you with advance written notice of any such rules or procedures or changes to such rules or procedures.
- (h) You will use only unaltered version(s) of Data Protection and will not use, operate or combine Data Protection or any related software, materials or documentation, or any derivative works thereof with other products, materials or services in a manner inconsistent with the uses contemplated in this section.
- (i) You will promptly notify us of a breach of any these terms.

**38.4. Tokenization Limited Warranty.** Subject to the terms of this Agreement, we (i) warrant that each token returned to you through Data Protection cannot be used to initiate a financial sale transaction by an unauthorized entity/person outside your point of sale systems and facilities where you process and/or store transaction data (the "Limited Warranty"); and (ii) agree to indemnify and hold you harmless from direct damages, including third party claims, resulting from our breach of the Limited Warranty. This express remedy for our breach of the Limited Warranty constitutes our entire liability and your sole and exclusive remedy for our breach of the Limited Warranty.

The Limited Warranty is void if (a) you use Data Protection in a manner not contemplated by, or you are otherwise in violation of, this Agreement or any other agreement relating to Cards eligible for Data Protection; (b) you are grossly negligent or engage in intentional misconduct; or (c) you no longer have a processing relationship with us.

**38.5. Disclaimer;** TransArmor Solution Does Not Guarantee Compliance or Security.

**38.5.1. USE OF TRANSARMOR SOLUTION, SOFTWARE OR ANY EQUIPMENT (INCLUDING ANY SERVICES, SOFTWARE OR EQUIPMENT PROVIDED BY OR THROUGH A THIRD PARTY) IS AT YOUR OWN RISK AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW THE TRANSARMOR SOLUTION, EQUIPMENT AND ANY SOFTWARE IS PROVIDED "AS IS" AND WE DISCLAIM ALL REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, MADE TO YOU OR ANY OTHER PERSON, INCLUDING ANY WARRANTIES REGARDING QUALITY, SUITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR THAT THE TRANSARMOR SOLUTION, EQUIPMENT OR ANY SOFTWARE WILL OPERATE UNINTERRUPTED OR ERROR FREE OR THAT THE TRANSARMOR SOLUTION, EQUIPMENT OR SOFTWARE ARE SECURE, FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR DO NOT INFRINGE THE RIGHTS OF ANY PERSON.**

**38.5.2. USE OF THE TRANSARMOR SOLUTION DOES NOT (A) GUARANTEE COMPLIANCE WITH ANY OF THE RULES OR SECURITY STANDARDS ESTABLISHED BY THE CARD ORGANIZATIONS, INCLUDING PCI DSS; (B) ELIMINATE YOUR OBLIGATION TO COMPLY WITH SUCH REQUIREMENTS; OR (C) GUARANTEE SECURITY OR PREVENT A SECURITY BREACH OR COMPROMISE. WE MAKE NO WARRANTIES; EITHER EXPRESSED OR IMPLIED THAT PARTICIPATION AND/OR USE OF TRANSARMOR SOLUTION WILL DETECT EVERY VULNERABILITY ON YOUR SYSTEM, IF ANY, OR THAT OUR VULNERABILITY ASSESSMENTS, SUGGESTED SOLUTIONS OR ADVICE WILL BE ERROR-FREE OR COMPLETE. YOU AGREE THAT WE SHALL NOT BE RESPONSIBLE OR LIABLE FOR THE ACCURACY OR USEFULNESS OF ANY INFORMATION PROVIDED BY US, OR FOR ANY USE OF SUCH INFORMATION.**

**38.5.3.** You acknowledge and understand that accessing, retrieving, transmitting, and scanning IP addresses and other data in the manner undertaken by the TransArmor Solution involves inherent risks, including risks related to system or network performance and availability, and data corruption. You assume full responsibility to backup and/or otherwise protect your data against loss, damage or destruction, and to take appropriate measures to respond to any potential adverse impact of the systems or disruption of service.

**38.6. Intellectual Property Rights.**

**38.6.1.** All right, title, and interest in and to all confidential information and intellectual property related to the TransArmor Solution (including the Marks, all Software, the content

of any materials, web screens, layouts, processing techniques, procedures, algorithms, and methods and any updates, changes, alterations, or modifications to or derivative works from such intellectual property), owned, developed or licensed by us prior to, during the term of, or after this Agreement, or employed by us in connection with the TransArmor Solution, shall be and remain, as among the Parties or our Affiliates', our vendors' or our licensors' (as applicable) sole and exclusive property, and all right, title and interest associated with the TransArmor Solution, Equipment and Software not expressly granted by us in this Agreement are deemed withheld. You may not use our Marks in any manner, including in any advertisements, displays, or press releases, without our prior written consent.

**38.6.2.** You may not, nor may you permit any third party to do any of the following: (a) decompile, disassemble, reverse engineer, or otherwise attempt to reconstruct or discover by any means any source code, underlying ideas or algorithms of the TransArmor Solution, Software or Equipment (or any part), except to the extent that such restriction is expressly prohibited by law; (b) modify, translate, or alter in any manner, the TransArmor Solution, Software or Equipment (or any part) or the Marks; (c) create derivative works of or based on the TransArmor Solution (or any part), Software or the Marks; (d) except for backup and archival purposes, directly or indirectly copy the TransArmor Solution or any Software (or any part); (e) republish, upload, post, transmit, disclose, or distribute (in any format) the TransArmor Solution or Software (or any part) except as permitted in this Agreement; or (f) remove, relocate, or otherwise alter any proprietary rights notices from the TransArmor Solution, Software or Documentation (or any part) or the Marks.

**38.6.3.** If we provide you with copies of or access to any Software or Documentation, unless otherwise expressly stated in writing, that Software and Documentation is provided on a personal, non-exclusive, non-transferable, non-assignable, revocable limited license for the period of your subscription to the applicable TransArmor Solution service and solely for you to access and use the Software and Documentation to receive the relevant TransArmor Solution service for its intended purpose on systems owned or licensed by you. Software can only be used with certain computer operating systems and it is your responsibility to ensure that you have the appropriate hardware and software to use the Software.

**38.6.4.** You shall not take any action inconsistent with the stated title and ownership in this Section 38. You will not file any action, in any forum that challenges the ownership of any part of the TransArmor Solution or any software, materials or Documentation. Failure to comply with this provision will constitute a material breach of this Agreement. We have the right to immediately terminate your access to and use of the TransArmor Solution in the event of a challenge by you.

**38.6.5.** If you are acquiring any of the TransArmor Solution services on behalf of any part of the United States Government (Government): any use, duplication, or disclosure by the Government is subject to the restrictions set forth in subparagraphs (a) through (d) of the Commercial Computer Software-Restricted Rights clause at FAR 52.227-19 when applicable, or in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013, and in similar clauses in the NASA FAR Supplement; (b) we are the contractor/manufacturer, with the address set forth in this Agreement; and (c) any use, modification, reproduction, release, performance, display or disclosure of TransArmor Solution and/or the accompanying documentation by the Government or any of its agencies shall be governed solely by the terms of this Agreement and shall be prohibited except to the extent expressly permitted by this Agreement.

**38.7. Software Updates, Maintenance and Changes.**

**38.7.1.** We may perform maintenance on Software or TransArmor Solution which may result in service interruptions, delays, or errors. We will not be liable for any such interruptions, delays, errors, or bugs. You agree that we may contact you in order to assist you with the Software or Services and obtain information needed to identify and fix any errors. We may, at our discretion, release enhancements, improvements or other updates to any Software, or otherwise make any changes to the TransArmor Solution (or any part).

**38.7.2.** You acknowledge and understand that certain Software can automatically install, download, and/or deploy updated and/or new components, which may include a new version of the Software itself. You shall not, in any event or in any manner, impede the update process. You agree to assume full responsibility and indemnify us for all damages and losses, of any nature, for all adverse results or third party claims arising from your impeding the update process.

**38.8. Accessing Services** via the Internet or third parties. You agree that we shall not be liable to you for any claims, damages, losses, obligations, costs or expenses or other liability arising directly or indirectly from or otherwise concerning (a) any termination, suspension, delay or disruption of service (including billing for a service) by the internet, any common carrier or any third party service provider; (b) any failure, disruption or malfunction of the TransArmor Solution, the Internet, or any communications network, facility or equipment beyond our or a third party's reasonable control, whether or not attributable to one or more common carriers; or (d) any failure to transmit, obtain or collect data or for human, machine or software errors or faulty or erroneous input by you.

**38.9. Access and Use of Services.**

**38.9.1.** Unless we otherwise agree in writing, the TransArmor Solution shall be for your internal business use in the United States and US territories or possessions only.

**38.9.2.** You shall not and shall not permit any third party to: (a) access or attempt to access any of the TransArmor Solution service that is not intended to be available to you; (b) access or use (in any format) the TransArmor Solution (or any part) through any time-sharing service, service bureau, network, consortium, or other means; (c) without our advanced written consent, use, ship or access TransArmor (or any part) outside or from outside of the United States; (d) perform or attempt to perform any actions that would interfere with the proper working of any part of the TransArmor Solution, prevent access to or use of any of the TransArmor Solution by other users, or in our reasonable judgment,

impose a large load on our infrastructure, network capability or bandwidth; or (c) use the TransArmor Solution (or any part) except as permitted in this Agreement.

**38.9.3.** We have the right to rely on user names, password and other sign on credentials/access controls for the TransArmor Solution or any Software (including Federated Single Sign-on credentials) provided or approved by us to authenticate access to, and use of, the Services and any Software.

**38.10. Indemnification.** In addition to other indemnifications provided in this Agreement, you agree to indemnify and hold us, our Affiliates and third party service providers harmless from and against all losses, liabilities, damages and expenses arising from (a) your use of the TransArmor Solution, including any Software or Equipment provided under this Agreement; or (b) any other person's authorized or unauthorized access and/or use of the TransArmor Solution (or any part), Software or Equipment, whether or not using your unique username, password, or other security features.

**38.11. Liability Waiver.**

**38.11.1.** Subject to your subscribing to the entire TransArmor Solution bundle and to the terms of this Agreement, we agree to waive liability that you have to us under this Agreement for Security Event Expenses resulting from a Data Security Event first discovered by you or us while you are receiving and utilizing the TransArmor Solution (the "Liability Waiver").

**38.11.2.** The maximum amount of Liability Waiver for all Security Event Expenses arising out of or relating to your Data Security Events first discovered during any TransArmor Program Year regardless of the number of such Data Security Events is as follows:

- a) \$100,000.00 maximum per each MID you have; and
- b) \$500,000 aggregate maximum for all of your MID's.

**38.11.3.** In addition to Section 38.11.2., the maximum amount of Liability Waiver during any TransArmor Program Year for EMV Upgrade Costs is further limited as follows:

- a) \$10,000 maximum per each MID you have; and
- b) \$25,000.00 aggregate maximum for all of your MID's.

**38.11.4.** All Security Event Expenses resulting from the same, continuous, related or repeated event or facts will be deemed to arise out of one Data Security Event.

**38.11.5.** The Liability Waiver shall not apply in relation to:

- a) your failure to comply with the terms of this Agreement;
- b) any Data Security Event occurring before you started receiving the TransArmor Solution;
- c) any fines or assessment levied against you that are not the direct result of a Data Security Event;
- d) any Data Security Event relating to you where you have experienced a prior Data Security Event, unless you were later certified as PCI compliant by a qualified security assessor;
- e) any expenses incurred for, or as a result of, regularly scheduled, recurring or routine security assessments, regulatory examinations, inquiries or compliance activities;
- f) any Data Security Event if you: (i) are categorized by any Card Organization as "Level 1" or (ii) processes more than six million (6,000,000) Card transactions during the twelve month period prior to the date this Section became effective;
- g) any expenses, other than Security Event Expenses, incurred by you arising out of or resulting, directly or indirectly, from a Data Security Event, including expenses incurred to bring you into compliance with the PCI Data Security Standard or any similar security standard;
- h) any Security Event Expenses arising out of or resulting, directly or indirectly, from an event of force majeure, any dishonest, fraudulent, criminal or malicious act, error or omission, or any violation of the law including any claim, suit, action or proceeding against you that is brought by or on behalf of any federal, state or local government agency; or
- i) any Data Security Event arising out of (i) any software not within your control; provided, however, this exclusion shall not apply to a Data Security Event arising out of a virus, Trojan horse or other software used by a third party to obtain fraudulent access to data to your computer system or to collect data in transit to or from your computer system; (ii) a breach in a computer system in which you and other merchants, with no legal relationship to one another, have hosted accounts or share a common database, operating system or software applications; or (iii) your allowing any party (other than its employees or us) to hold or access Cardholder Information.

**38.11.6.** Notwithstanding the Liability Waiver: (a) you must continue to perform all obligations under this Agreement, including your obligation to comply with data security requirements; and (b) we waive no rights or remedies under this Agreement including our right to terminate or suspend this Agreement if a Data Security Event occurs.

**38.12. Export Compliance**

**38.12.1.** You agree not to export or re-export any Software or Equipment or any underlying information except in full compliance with all applicable laws and regulations.

**38.12.2.** None of the Software or Equipment or any underlying information may be downloaded or otherwise exported or re-exported (a) to any country to which the United States has embargoed goods (or any national or resident thereof); (b) to anyone on the United States Treasury Department's list of Specially Designated Nationals or the United States Commerce Department's Table of Deny Orders; or (c) in any manner not in full compliance with the requirements of the United States Bureau of Industry and Security and all applicable Export Administration Regulations.

**38.12.3.** If you have rightfully obtained Software or Equipment or any underlying information outside of the United States, you agree not to re-export the same except as permitted by the laws and regulations of the United States and the laws and regulations of the jurisdiction in which you obtained it. You warrant that you are not located in, under the control of, or a national or resident of any such country or on any such list.

**38.13. Definitions:**

- (a) **Card Organization Assessment** means a monetary assessment, fee, fine or penalty levied against you or us by a Card Organization as the result of (i) a Data Security Event or (ii) a security assessment conducted as the result of a Data Security Event; provided, that The Card Organization Assessment shall not exceed the maximum monetary assessment, fee, fine or penalty permitted upon the occurrence of a Data Security Event by the applicable rules or agreement in effect as of the inception date of this Agreement for such Card Organization;
- (b) **Cardholder Information** means the data contained on a Card, or otherwise provided to Client, that is required by the Card Organization or us in order to process, approve and/or settle a Card transaction;
- (c) **Card Replacement Expenses** means the costs that we or you are required to pay by the Card Organization to replace compromised Cards as the result of (i) a Data Security Event or (ii) a security assessment conducted as the result of a Data Security Event;
- (d) **Data Protection** is a TransArmor Solution service that provides encryption of cardholder data at your payment environment and replaces the data with a token or randomly generated number;
- (e) **Data Security Event** means the actual or suspected unauthorized access to or use of Cardholder Information, arising out of your possession of or access to such Cardholder Information, which has been reported (i) to a Card Organization by you or us or (ii) to you or us by a Card Organization. All Security Event Expenses and Post Event Services Expenses resulting from the same, continuous, related or repeated event or which arise from the same, related or common nexus of facts, will be deemed to arise out of one Data Security Event;
- (f) **Documentation** means any documents, instructions, web screen, layouts or any other materials provided by us relating to the Software or the TransArmor Solution;
- (g) **Equipment** means equipment rented to or purchased by you under this Agreement and any documents setting out additional terms on which Equipment is rented to or purchased by you;
- (h) **EMV Upgrade Costs** means cost to upgrade payment acceptance and processing hardware and software to enable you to accept and process EMV-enabled Card in a manner compliant with PCI Data Security Standards;
- (i) **Forensic Audit Expenses** means the costs of a security assessment conducted by a qualified security assessor approved by a Card Organization or PCI Security Standards Council to determine the cause and extent of a Data Security Event;
- (j) **Liability Waiver** has the meaning as set forth in Section 38.11.1 above;
- (k) **Marks** means the names, logos, emblems, brands, service marks, trademarks, trade names, tag lines or other proprietary designations;
- (l) **Post Event Services Expenses** means reasonable fees and expenses incurred by us or you with our prior written consent, for any service specifically approved by us in writing, including, without limitation, identity theft education and assistance and credit file monitoring. Such services must be provided by or on behalf of us or you within one (1) year following discovery of a Data Security Event to a Cardholder whose Cardholder Information is the subject of that Data Security Event for the primary purpose of mitigating the effects of such Data Security Event;
- (m) **Program Year** means the period from November 1st through October 31st of each year;
- (n) **Security Event Expenses** means Card Organization Assessments, Forensic Audit Expenses and Card Replacement Expenses. Security Event Expenses also includes EMV Upgrade Costs you agree to incur in lieu of a Card Organization Assessment;
- (o) **Software** means all software, computer programs, related documentation, technology, know-how and processes embodied in the Equipment (i.e. firmware) or otherwise provided to you under this Agreement. For the avoidance of doubt, the term Software shall not include any third party software available as part of a service provided from someone other than us or our vendors or which may be obtained by you separately from the TransArmor Solution (e.g. any applications downloaded by you through an application marketplace);
- (p) **TransArmor PCI** is a TransArmor Solution service that provides access to online PCI DSS Self-Assessment Questionnaires (SAQ) to validate PCI data standards; and
- (q) **TransArmor Solution** is the suite of security services provided by us and known as TransArmor.

**39. Special Provisions Regarding  
Payeezy<sup>SM</sup> Gateway Services**

If you elect to utilize the Payeezy Gateway Services, the following additional terms and conditions of this Section 39 shall apply.

The Payeezy Gateway Services are provided to you by Processor and not Bank. Bank is not a party to this Agreement insofar as it applies to the Payeezy Gateway Services, and Bank is not liable to you in any way with respect to such services. For the purposes of this Section 39, the words "we," "our" and "us" refer only to the Processor and not the Bank.

The Payeezy Gateway Services provided and other matters contemplated under this Section 39 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 39 directly conflict with another provision of this Agreement, in which case the terms of this Section 39 will control.

**39.1. Definitions.** Capitalized terms used in this Section 39 shall have the meaning given as defined in this Section or as defined in the Glossary or elsewhere in this Agreement.

**Claim** means any arbitration award, assessment, charge, citation, claim, damage, demand, directive, expense, fine, interest, joint or several liability, lawsuit or other litigation, notice, infringement or misappropriation of any Intellectual Property Right or violation of any law, and any consequential, indirect, special, incidental or punitive damages and any attorney's fees and expenses incurred in connection therewith. For purposes of the foregoing Claim definition, a Claim shall be considered to exist even though it may be conditional, contingent, indirect, potential, secondary, unaccrued, unasserted, unknown, unliquidated, or unmaturing.

**Confidential Information** means the Payeezy Gateway Services, Documentation, operational procedures, the terms and conditions of this Section 33 (including any schedule, exhibit or addendum), pricing or other proprietary business information, and any other information provided to you by us, whether or not such information is marked as confidential; provided, however, that Confidential Information will not include information that: (a) is or becomes generally known to the public through no fault of yours; (b) was lawfully obtained by you from a third party free of any obligation of confidentiality; (c) was already in your lawful possession prior to receipt thereof, directly or indirectly, from the disclosing party; (d) is independently developed by you without the use of the Confidential Information; (e) is disclosed with our express written permission; or (f) is disclosed pursuant to a lawful court or governmental order, provided you provide us with prompt prior written notice of any proceeding that may involve such an order, and an opportunity to contest any disclosure at such proceeding.

**Customer** means your customer who would like to provide payment for your goods or services.

**Documentation** means any and all manuals and other written materials in any form provided for use with the Software, as amended by us from time to time, the terms of which are incorporated in this Section 39 as if fully set forth herein.

**Intellectual Property Rights** means any and all patents, copyrights, trademarks, trade secrets, service marks, and any other intellectual property rights, and any applications for any of the foregoing, in all countries in the world.

**Merchant Account** shall mean an account set up for a merchant that requires a card processor, bank, merchant ID, terminal ID, merchant identification number, or otherwise named unique merchant number. Multiple physical or virtual storefronts that process transactions under the same unique merchant number shall be deemed as one (1) Merchant Account.

**Payeezy Gateway Services or Services** means the products or services offered through the Platform including, but, not limited to payment processing services such as authorization of transactions to the appropriate payment processing network or third party service provider, transaction responses (approved, declined), and the detailed reporting of those transactions, and all related and applicable Software.

**Platform** means our operated, or approved, electronic payment platform(s) and/or gateway(s) (also referred to as the "Payeezy Gateway") through which the payment Services contemplated under this Section 39 are provided.

**Software** means all applications, protocols, software components and other interfaces and software provided by us to you pursuant to this Section 39, and any and all Updates.

**Updates** means an embodiment of the Software that provides enhancements and/or improvements.

**Your Systems** means any web site(s) or interfaces to the Services that are operated or maintained by you or on your behalf through which transactions are submitted for processing, and all your other associated systems.

**39.2. Fees.** Client shall pay Processor the fees for the Payeezy Gateway Services as set forth on the Application. A separate account with us for Payeezy Gateway Services shall be required for each separate Merchant Account held by you.

**39.3. Term; Termination.** The Payeezy Gateway Services shall commence as of the effective date of this Agreement and shall remain in effect until terminated by either party as provided herein. Either party may terminate these Services upon giving the other party at least thirty (30) days prior written notice. We may suspend or terminate your access to the Services without prior notice, with or without cause. Regardless of the reason for termination, you shall be responsible for the payment of all fees due up to and including the effective date of termination.

#### **39.4. License Grant.**

**39.4.1. License.** Subject to the terms and conditions of this Agreement (including additional rights and licenses granted in the Documentation), we hereby grant you and you hereby accept a non-sublicensable, royalty free, non-exclusive, non-transferable, revocable limited license to use the Services, during the term of this Agreement, for the sole and limited purpose of submitting payment transactions to us for processing, and otherwise using our Services as set forth herein. For clarity, all references to Services in this Agreement shall include the applicable Software.

**39.4.2. Documentation License.** Subject to the terms and conditions of this Agreement, we hereby grant, and you hereby accept, a non-sublicensable, royalty free, non-exclusive, non-transferable, revocable limited license to use the Documentation during the term of this Agreement for the sole and limited purpose of supporting your use of the Services. You shall strictly follow all Documentation provided to you, as it may be amended from time

to time by us, in our discretion. To the extent that there is any conflict between the Documentation and the terms of Agreement, the terms of this Section 39 shall govern and control.

**39.4.3. Use Restrictions.** You acknowledge that the Services and Documentation constitute our intellectual property, therefore, you shall not, and shall not cause or permit any third party to: (i) use the Services in any way, other than in accordance with this Agreement or the Documentation or as otherwise instructed by us in writing; (ii) use the Services or Documentation, either directly or indirectly, for benchmarking purposes or to develop any product or service that competes with the products and services provided under this Section 39; (iii) disassemble, decompile, decrypt, extract, reverse engineer or modify the Services, or otherwise apply any procedure or process to the Services in order to ascertain, derive, and/or appropriate for any reason or purpose, the source code or source listings for the Services or any algorithm, process, procedure or other information contained in the Services, except as otherwise specifically authorized in accordance with this Section 39; (iv) provide the Services or Documentation to any third party, other than to your authorized employees and contractors who are subject to a written confidentiality agreement, the terms of which are no less restrictive than the confidentiality provisions of the Agreement; (v) use, modify, adapt, reformat, copy or reproduce the Services or Documentation or any portion thereof, except as is incidental to the purposes of this Section 39, or for archival purposes (any copies made hereunder shall contain all appropriate proprietary notices); (vi) rent, lease, upload, assign, sublicense, transfer, distribute, allow access to, or time share the Services or Documentation; (vii) circumvent or attempt to circumvent any applicable security measures of the Services; (viii) attempt to access or actually access portions of the Platform or Services not authorized for your use; and/or (ix) use the Services in any unlawful manner or for any unlawful purpose.

**39.4.4. Updates.** From time to time we may, at our discretion, release Updates or modify the Software. In the event we notify you of any such Update, you shall integrate and install such Update into Your Systems within thirty (30) days of your receipt of such notice. You acknowledge that failure to install Updates in a timely fashion may impair the functionality of the Platform or any of our Services provided hereunder. We will have no liability for your failure to properly install the most current version of the Software or any Update, and we will have no obligation to provide support or Services for any outdated versions.

**39.4.5. Licensors.** The licenses granted hereunder may be subject to other licenses currently held by us or our subcontractors. Should any license held by us to certain technology or software be terminated or suspended, the corresponding license(s) granted to you hereunder may also be terminated or suspended in our sole and absolute discretion. You acknowledge and agree to such potential termination or suspension and hereby waive any and all damages, whether actual, incidental or consequential resulting therefrom.

**39.4.6. Export Compliance.** You agree not to export or re-export the Software or any underlying information or technology except in full compliance with all applicable laws and regulations. In particular, but without limitation, none of the Software or underlying information or technology may be downloaded or otherwise exported or re-exported (i) to any country to which the United States has embargoed goods (or any national or resident thereof); (ii) to anyone on the United States Treasury Department's list of Specially Designated Nationals or the United States Commerce Department's Table of Deny Orders; or (iii) in any manner not in full compliance with the requirements of the United States Bureau of Industry and Security and all applicable Export Administration Regulations. If you have rightfully obtained the Software outside of the United States, you agree not to re-export the Software except as permitted by the laws and regulations of the United States and the laws and regulations of the jurisdiction in which you obtained the Software. You warrant that you are not located in, under the control of, or a national or resident of any such country or on any such list.

**39.4.7. Federal Acquisition Regulations.** If you are acquiring the Software on behalf of any part of the United States Government (the "Government"), the following provisions apply: Any use, duplication, or disclosure by the Government is subject to the restrictions set forth in subparagraphs (a) through (d) of the Commercial Computer Software-Restricted Rights clause at FAR 52.227-19 when applicable, or in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013, and in similar clauses in the NASA FAR Supplement. We are the contractor/manufacturer, with the address set forth below. Any use, modification, reproduction, release, performance, display or disclosure of the Software and/or the accompanying documentation by the Government or any of its agencies shall be governed solely by the terms of this Agreement and shall be prohibited except to the extent expressly permitted by the terms of this Section 39.

**39.4.8. Return/Destruction.** Upon termination or expiration of this Agreement, all licenses granted hereunder shall immediately terminate, and within five (5) days thereof, you shall either return to us or destroy the Software and the Documentation, and shall so certify to us in writing.

**39.4.9. No other Licenses.** Except as expressly provided above, no license for any patents, copyrights, trademarks, trade secrets or any other Intellectual Property Rights, express or implied, are granted hereunder.

**39.4.10. Use of Transaction Data.** As permitted by applicable law and regulations, we reserve the right to copy and distribute to third parties, any information associated with your use of the Services or your activities on the Platform.

#### **39.5. Platform Matters**

**39.5.1. Integration with Your Systems.** While we provide Software to you, you acknowledge that the Software itself is insufficient to allow Your Systems to function with the Platform. Programming, development and maintenance of Your Systems and their functionality are your sole responsibility. You have the sole responsibility to select and employ any competent programming agent(s) to accomplish the programming required to make Your Systems function correctly with the Platform and the payment services

contemplated hereunder ("Integration"). You shall be responsible for all technical support for Your Systems and Integration related issues. You agree that you will use commercially reasonable efforts to complete the Integration as soon as possible. You will be responsible for all of your own development and implementation costs associated with such Integration. Notwithstanding any other provision of this Section 39, you acknowledge that unless and until you complete the Integration, no Services need be provided by us to you pursuant to this Agreement, except as otherwise specifically provided in Section 39.5.2 below. In addition, you acknowledge and agree that, even if you have completed Integration, if you have not entered into a valid merchant processing agreement with an authorized bank card processor, you cannot receive the Services through the Platform.

**39.5.2. Set-Up Assistance Services.** Subject to Section 39.5.1 above, upon your request to us, and upon payment of any applicable Fees, we will provide you with set-up services to assist with the Integration.

**39.5.3. Shut Downs.** We reserve the right, from time to time, without prior notice, to shut down and restart the Platform for maintenance and/or software upgrades for reasonable time periods of one minute or more.

**39.5.4. Orders by Customers.** You are solely responsible for accepting, processing, and filling any orders for purchases by your Customers, and for handling any inquiries arising therefrom. You shall use the highest standards in the industry in responding to complaints by Customers. We are not responsible or liable for any unauthorized access to your data or Your Systems by any means or device.

**39.5.5. Suspension of Access to the Platform and Services.** We may suspend your access to the Platform and Services, without prior notice, with cause. For purposes of this Section 39 the term "cause", in addition to cause as defined under the Agreement, shall mean that significant activity by you has been detected (which excludes a high volume of transactions) or the security or integrity of the Platform is materially compromised. We will make commercially reasonable efforts to provide prior notification to you of any such proposed suspension and provide you with a reasonable opportunity to cure, provided just you (and no other user) are affected, and provided such cure is allowed by the applicable law or the Card Organization Rules. If prior notification to you is not possible because such significant activity or security issue would materially and adversely affect other users of the Platform and Services, then we will provide notice of such suspension as promptly as possible thereafter with detailed information regarding the suspected fraudulent activity or security issue, as well as any other information that can assist you with identifying the root cause of the problem responsible for such suspension. Upon a determination by us that you are not responsible for the fraudulent activity or security issue resulting in the suspension or any security threat as abated, the Services and your license to the Software shall be promptly re-activated and the Services under this Section 39 shall recommence. Regardless of the reason for such suspension, you shall be responsible for the payment of all fees due up to and including the effective date of the suspension.

**39.6. Security of Information.** We will use commercially reasonable efforts to maintain the security of the Services and the Platform. You will use commercially reasonable efforts to maintain the security of Your Systems. Such steps by you will be taken at your sole cost and expense, and shall include, without limitation: (i) creating firewalls to protect against unauthorized access to Your Systems by your employees, contractors, Customers, or by any other person; and (ii) implementing reasonable protective techniques suggested by us. You further agree that you will be bound by and comply with all of our and all Card Organization security rules and regulations as they now exist or as each may be amended or supplemented from time to time. Notwithstanding the foregoing, the parties recognize that there is no guarantee or absolute security of information that is communicated over the internet.

**39.7. Privacy.** We have adopted online Privacy Statement(s) to inform individuals as to our online collection and use of personal information. You agree that, during the term of this Agreement, you will adequately communicate and comply with an appropriate privacy policy explaining your online collection and use of the personal information of your Customers. Unless required by law, Card Organization Rules, or done pursuant to this Agreement, you shall not, under any circumstances, sell, purchase, provide, or otherwise disclose any customer's account information, transaction information, or other personal information to any third party. You shall store all data securely. We may advise potential users of the services that we have a relationship with you.

**39.8. Audit Rights.** Upon notice to you, we may audit your usage, records and security of the Services, your Customer's payment processing information, and the services provided hereunder to ensure (i) that you are using the Services in full compliance with the provisions of this Section 39; (ii) that all applicable fees have been paid; (iii) that you are adhering to your privacy policy; and; (iv) that you are in full compliance with all applicable laws, regulations and rules (including but not limited to Card Organization Rules). Any such audit shall be conducted during regular business hours at your offices and shall not interfere unreasonably with your business.

**39.9. Indemnification.** You shall indemnify, defend, and hold us, our subsidiaries and affiliates and our and their officers, directors, employees, shareholders, agents and attorneys from any Claim(s) arising from the conduct of your business, any Transactions submitted through the Platform hereunder for payment processing, any false or inaccurate representation made by you or the negligence, fraud, dishonesty or willful behavior of any of your employees or agents, or from your failure to strictly comply, in whole or in part, with any: (i) terms and conditions pursuant to this Agreement and any addenda hereto or Documentation; or (ii) applicable law, regulations or rules. Upon written notice from us to

you, you shall immediately undertake the defense of such Claim by representatives of your own choosing, subject to our reasonable approval.

#### **39.10. Limitation of Liability.**

**39.10.1.** Processor is not liable for the merit and legitimacy of the orders forwarded by you. All liability for validity of orders remains with you. We are not responsible for any data entry errors, Customer misrepresentations, or reporting errors resulting from your actions. We shall not be liable to you or your Customer for the accuracy of the information provided by the Platform or our Services.

**39.10.2.** In no event shall we be liable to you, or to any other person or entity, under this Section 33, or otherwise, for any punitive, exemplary, special, incidental or consequential damages, including, without limitation, any loss or injury to earnings, profits or goodwill.

**39.10.3.** Notwithstanding any provision in this Agreement to the contrary, in no event shall our liability under this Section 39 for all Claims arising under, or related to, this Section 33 exceed, in the aggregate (inclusive of any and all Claims made by you against us, whether related or unrelated), the lesser of: (i) the total amount of fees paid by you for the our Services during the 12-month period immediately preceding the date the event giving rise to such Claim(s) occurred; or (ii) \$50,000.00.

**39.10.4.** Notwithstanding provisions set forth herein, we will not be liable for any Claims under this Agreement arising directly or indirectly from or otherwise concerning: (a) any termination, suspension, delay or disruption of service (including billing for a service) by the Internet, any common carrier or any third party service provider; (b) any failure, disruption or malfunction of the Services provided hereunder or the Internet, or any communications network, facility or equipment beyond our reasonable control, whether or not attributable to one or more common carriers or third party service providers; (c) any failed attempts by you or your Customers to access any Systems or to complete processing transactions; or (d) any failure to transmit, obtain or collect data from Customers or for human, machine or software errors or faulty or your or your Customer's erroneous input. Except as expressly agreed to by us in writing with respect to any Separate Product, we are not liable for any Excluded Products.

**39.11. DISCLAIMER OF WARRANTIES.** YOU ACKNOWLEDGE AND AGREE THAT THE USE OF THE PAYEEZY GATEWAY SERVICES AND DOCUMENTATION ARE AT YOUR SOLE RISK WE MAKE NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AND NO IMPLIED AT LAW WARRANTY SHALL ARISE FROM THIS SECTION, PAYEEZY GATEWAY SERVICES, DOCUMENTATION, OUR PROCEDURES, OTHER SERVICES PROVIDED OR PERFORMED BY US HEREUNDER, INCLUDING, WITHOUT LIMITATION: (A) ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, (B) ANY WARRANTIES OF NONINTERFERENCE OR NON-INFRINGEMENT; OR (C) ANY WARRANTIES THAT ANY PRODUCT OR SERVICE PROVIDED HEREUNDER (INCLUDING BUT NOT LIMITED TO THE SOFTWARE) WILL (1) MEET YOUR REQUIREMENTS; (2) OPERATE ACCORDING TO YOUR EXPECTATIONS; (3) PROVIDE ACCURATE DATA; OR (4) OPERATE UNINTERRUPTED OR ERROR FREE. ANY AND ALL SUCH WARRANTIES ARE EXPRESSLY DISCLAIMED BY US AND WAIVED BY YOU. WE DO NOT WARRANT THAT ANY ERRORS WILL BE CORRECTED. EXCEPT AS OTHERWISE SPECIFICALLY SET FORTH HEREIN, THE PAYEEZY GATEWAY SERVICES, (INCLUDING WITHOUT LIMITATION THE PAYEEZY GATEWAY AND SOFTWARE), DOCUMENTATION AND OTHER SERVICES PROVIDED HEREUNDER ARE PROVIDED ON AN "AS-IS, WITH ALL FAULTS" BASIS. THIS DISCLAIMER OF WARRANTIES CONSTITUTES AN ESSENTIAL PART OF THIS AGREEMENT. All decisions to reject any processing transaction or payment for your products or services are solely your responsibility.

**39.12. Notices.** You agree to notify us of any change in your name, type of business, or any other information required on your Merchant Processing Application at least thirty (30) business days prior to the effective date of change. Any notice or other communication required or permitted to be given hereunder shall be in writing, addressed or transmitted to the party to be notified at such party's address or number at such party's last known address or number, and shall be: (i) if sent by us, hand delivered or delivered by facsimile transmission, overnight courier or certified, registered, regular mail or e-mail; or (ii) if sent by you, certified or registered mail, postage prepaid return receipt requested to 3975 N.W. 120th Avenue, Coral Springs, FL 33065. Any notice delivered hereunder shall be deemed effective, as applicable, upon delivery, if hand delivered or sent by overnight courier; upon receipt as evidenced by the date of transmission indicated on the transmitted material, if by facsimile transmission or e-mail; on the date of delivery indicated on the return receipt, if mailed by certified or registered mail; or ten (10) days after mailing, if by regular mail (or as otherwise required by applicable law). The parties' addresses may be changed by written notice to the other party as provided herein.

**39.13. Subcontractors.** Processor may subcontract all or part of the Services using a variety of providers globally, but, notwithstanding any such subcontract, Processor shall remain fully responsible for performance of the Services, including ensuring the compliance of subcontractors with the terms of this Agreement applicable to such subcontractors.

**39.14. Survival.** Upon termination or expiration of this Section 39 or the Agreement, a party's obligations shall cease except for those remaining or required to be performed following such termination. For the avoidance of doubt, the parties agree that those provisions of this Section that logically should survive its termination or expiration in order to accomplish its fundamental purposes will do so. All representations, warranties, indemnities and covenants made herein shall survive the termination of this Section and shall remain enforceable after such termination.



## 40. Special Provisions Regarding Payeezy<sup>SM</sup> WebStore Services

If you elect to utilize the Payeezy WebStore Services, you will be asked to electronically “click to agree” to terms and conditions that are substantially similar to the terms and conditions set forth below.

The Payeezy WebStore Services are provided to you by Processor and not Bank. Bank is not a party to this Agreement insofar as it applies to the Payeezy WebStore Services, and Bank is not liable to you in any way with respect to such services. For purposes of this Section 40, the words “we,” “our” and “us” refer only to the Processor and not the Bank. The Payeezy WebStore Services provided and other matters contemplated under this Section 40 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 40 directly conflict with another provision of this Agreement, in which case the terms of this Section 40 will control.

**40.1. Definitions.** Capitalized terms used in this Section 40 shall have the meaning given to such terms as set forth in this Section 40.1 or as defined elsewhere in this Section 40.

“**Merchant WebStore**” is the online store that you create using the Payeezy WebStore Services.

“**Payeezy Gateway Services**” means the products or services offered through Processor’s electronic payment platform, as described in Section 39.

“**Payeezy WebStore Services**” or “**Services**” means a collection of tools and resources to design and manage a Merchant WebStore.

**40.2. Agreement and Acceptance of the Terms.** The Payeezy WebStore Services provides merchants with a collection of tools and resources to design and manage an online store. The Services are part of our e-commerce platform, called “**Payeezy**”, and they assist merchants with creating their Merchant WebStore, selling products, processing orders and they also provide access to an array of online functionalities for the Merchant WebStore.

Before you utilize the Services, you must “click to agree” to the Merchant Terms of Service Agreement (the “**Terms**”). The Terms form a legally binding contract between you and Processor in relation to your use of the Services. You represent and warrant that you have the right and authority to bind your business to these Terms and you are not barred or otherwise legally prohibited from accessing or using the Services. You also authorize Processor to rely on any instructions provided by or agreements entered into with any persons to whom you grant permission to access and use the Services. For the avoidance of doubt, the terms “you” or “your” shall refer to your business.

**40.3. Eligibility.** Use of the Services is void where prohibited. By using the Services, you represent and warrant that your use of the Services does not violate any applicable law or regulation. In order to create and customize your Merchant WebStore, using the Services, you must first complete the steps necessary to use the Payeezy Gateway Services (the “**Payeezy Gateway Application Process**”). If you have not completed the Payeezy Gateway Application Process, you will be automatically directed to that application process after you “click to agree” to these Terms. If you are currently using our payment gateway, after you “click to agree” to these Terms, you will be sent an email that contains a link to your Merchant WebStore and the administrative panel or “**Dashboard**” that assists you in creating your Merchant WebStore.

### 40.4. WebStore Creation, Design and Operation

**40.4.1. Creating Your Merchant WebStore.** Subject to the eligibility requirements in the preceding Section, upon receipt of the link to your Merchant WebStore and the Dashboard, you will have access to all the tools and resources (including Third Party Content, defined below) to create and customize your Merchant WebStore. The link to your Merchant WebStore will show your domain name that Processor has created and assigned to you for the duration of your subscription (ex: yourstore.payeezywebstore.com). You can choose to create a unique URL for your Merchant WebStore.

**40.4.2. Operating Your Merchant WebStore.** You are solely responsible for all activity that occurs on your Merchant WebStore. Although Processor is the host of your Merchant WebStore, you are solely responsible for the Content, defined below, on your Merchant WebStore, including but not limited to branding (trademarks and logos), images and the accuracy of such Content. Processor shall have no responsibility or liability for any claims, costs or expenses (including refunds) associated with the operation of your Merchant WebStore.

You are solely responsible for maintaining the security of your Merchant WebStore. You accept sole responsibility for selecting and safeguarding your Merchant WebStore URL as well as any account numbers, passwords, security questions and answers, login details and any other security access information used by you to use or access the Services and/or your Merchant WebStore. You must prevent unauthorized access to and use of such information as well as unauthorized access to and use of your Merchant WebStore. You agree to immediately notify Processor in writing of any unauthorized uses of the Services and your Merchant WebStore or any other breach of security. Processor cannot and will not be liable for any loss or damage from your failure to comply with this security obligation and has the right to rely on your access controls for your Merchant WebStore.

As the host of your Merchant WebStore and provider of your payment gateway, Processor will have access to all information and data about your Merchant WebStore and may use that information and data for its own business purposes. You will in no way restrict Processor’s access or impede Processor’s ability to use, collect or disclose such information and data (as more specifically described in the Privacy Statement, defined below).

**40.4.3. Your Obligations to Your Customers.** You are solely responsible<sup>385</sup> for your customers’ access and use of your Merchant WebStore. Processor will in no way be responsible for any claims, disputes or complaints from your customers. We will provide you with a privacy statement for your Merchant WebStore, see Paragraph 34.5 below, but you are responsible for creating and including all other disclosures for your Merchant WebStore. You are solely responsible for disclosing the following information to your customers:

- Your contact information for customer service issues.
- Your billing, tax and shipping policies.
- Your refund, return and exchange policies.
- All other disclosures and disclaimers required by applicable law or regulation.

Be advised that Processor will not be liable for any loss or damage from your failure to disclose terms to your customers or from your failure to disclose the information listed above.

**40.4.4. Failure to Comply with this Section.** If you fail to comply with this Section or your Merchant WebStore does not comply with this Section, Processor shall have the right to terminate your use of the Services and suspend or permanently remove your Merchant WebStore, in its sole discretion, and you will not be entitled to damages or reimbursement.

### 40.5. Privacy

**40.5.1. Your Privacy.** We understand that your privacy is important. We have developed an Online Privacy Statement (“**Privacy Statement**”) that is located on your Dashboard. The Privacy Statement describes how we collect, use and disclose information related to the Services and your Merchant WebStore. Please review the Privacy Statement as your agreement to these Terms and your use of the Services will constitute your agreement to the Privacy Statement. You will not be asked to disclose your personal information when you create your Merchant WebStore nor will Processor require that you submit additional information to create your Merchant WebStore as all required information will have been provided when you completed the Payeezy Gateway Application Process, which is subject to its own privacy statement. Be advised that by using the Services, we may send you messages via email, including service-related announcements, notices (including any notices required by law), changes to features of the Service and special offers. The Services may allow you to share your personal information and activity on the internet (including blogs and social media sites, such as Facebook, Twitter, Google+, etc). You will need to take specific action for this to occur. Processor disclaims any and all liability and responsibility for any consequences (including, but not limited to, unforeseen consequences) of sharing (whether intended or unintended) your personal information.

**40.5.2. Your Customer’s Privacy.** On the home page of your Merchant WebStore (and on any additional page where your customer may provide personal information), we will include a link to a privacy statement that clearly describes your permitted use of your customer’s information as well as our use of such information. Such privacy statement will be substantially similar to the Privacy Statement on your Dashboard. You may separately disclose your additional use of your customer’s information, however, in no event will you be permitted to delete or revise the privacy statement that we provide on your Merchant WebStore.

**40.5.3. Failure to Comply with this Section.** If you fail to comply with this Section or your Merchant WebStore does not comply with this Section, Processor shall have the right to terminate your use of the Services and suspend or permanently remove your Merchant WebStore, in its sole discretion, and you will not be entitled to damages or reimbursement.

**40.6. Description of Services.** To assist you with creating your Merchant WebStore, Processor will provide you with Services that include, but are not limited to:

- Creation and design assistance.
- Shopping cart.
- Data storage and inventory management.
- Marketing and analytics.
- Sharing and linking of media and/or document files.

The Services are provided AS IS and Processor may change, suspend or discontinue any or all of the Services (including any Third Party Content) for any reason, at any time and at its sole discretion. Processor may also (i) add additional Services and will provide you with notice of such new Services via email or in connection with your use of our payment gateway; (ii) charge an additional fee for certain Services, which will be communicated to you when you elect to use such Services; and (iii) impose limits on all or any of the Services or restrict your access to parts or all of the Services without notice or liability to Processor.

### 40.7. Your Access to and Use of the Services.

**40.7.1. Services Restrictions.** Processor hereby grants you permission to use the Services pursuant to the Terms and, in connection with your access to and use of the Services, you agree to the following:

- You will not attempt to gain unauthorized access to any portion or feature of the Services by hacking, password “mining” or any other illegitimate means.
- You will not probe, scan or test the vulnerability of any network connected to the Services, nor breach the security or authentication measures on any network or systems connected to the Service.

- You will not use any device, software or routine to interfere or attempt to interfere with Processor's access to your Merchant WebStore and the information and data on your Merchant WebStore.
- You will not use any device, software or routine to interfere or attempt to interfere with the proper working of the Services or with any other user's use of the Services.
- You will not access or use the Services or accept the Terms if you are a person who is either barred or otherwise legally prohibited from accessing or using the Services.
- You accept sole responsibility for all of your activities using the Services, including your conduct and your customer's conduct on your Merchant WebStore and any and all Content you may submit, post or share on your Merchant WebStore. You will not use the Services for any unauthorized or illegal purpose. You will be responsible for ensuring that you do not violate any laws of your jurisdiction, including but not limited to copyright laws.
- You will not use the Services, among other things, to:
  - harm minors in any way;
  - impersonate any person or entity, or falsely state or otherwise misrepresent your affiliation with a person or an entity;
  - advertise, sale, post, or otherwise make available any Content that is illegal or violates any local, state, federal, or foreign law or regulation;
  - advertise, sale, post, or otherwise make available any Content that is false, unethical, obscene, defamatory, threatening, harassing, hateful, racially or ethnically offensive;
  - advertise, sale, post, or otherwise make available any Content that encourages conduct that would be considered a criminal offense or encourages the use of drugs or alcohol;
  - advertise, sale, post, or otherwise make available any Content that you do not have a right to make available under any law or under contractual or fiduciary relationships;
  - advertise, sale, post or otherwise make available any "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation; including, "spamming" to promote your Merchant WebStore or Content, or engaging in unethical marketing, advertising, any other practice connected in any way to "spam" including, sending Content or emails which do not comply with the CAN-SPAM Act of 2003;
  - advertise, sale, post, upload or otherwise make available any material that contains software viruses or any other computer code, files, or programs designed to interrupt, destroy, or limit the functionality of any computer software or hardware or telecommunications equipment; and
  - intentionally or unintentionally violate, attempt to violate, or avoid any applicable ICANN regulation or policy.

**40.7.2. Failure to Comply with this Section.** Processor reserves the right to investigate you, your business, and/or your owners, officers, directors, managers and other principals, your Merchant WebStore, and the Content on your Merchant WebStore. These investigations will be conducted solely for Processor's benefit, and not for your benefit or that of any third party. If the investigation reveals any information, act, or omission, which in Processor's sole opinion constitutes a violation of any local, state, federal law or regulation or the Terms, Processor may immediately suspend or terminate your use of the Services and/or suspend or permanently remove your Merchant WebStore. Processor will notify you of any such action and you agree to waive any cause of action or claim you may have against Processor for such action.

**40.8. Content: Your Content, Processor Content and Third Party Content.** "Content" means data, text, images, photographs, graphics, audio, video, offers, products, services, and documents including, without limitation, marketing materials, product data sheets, and other information and content available on or through or submitted on or through your Merchant WebStore.

**40.8.1. Your Content.** In connection with your use of the Services, you are permitted to upload Content on your Merchant WebStore ("Your Content") and host, share, and/or publish Your Content. By uploading Your Content onto your Merchant WebStore, you agree (i) to allow other internet users to view your Merchant WebStore and Your Content; (ii) to allow Processor to display and store Your Content; and (iii) that Processor can, at any time, review all of Your Content submitted by you. You retain all ownership over Your Content that you upload to your Merchant WebStore and you are solely responsible for the compliance of Your Content and your Merchant WebStore with applicable laws, regulations and the Terms. In connection with such compliance, you agree that you will not:

- Submit material that is copyrighted or otherwise subject to third party proprietary rights, unless you are the owner of such rights or have permission from the rightful owner to post the Content and grant Processor all license rights granted herein;
- Upload or post false information or misrepresentations that could damage Processor or any third party;
- Violate the restrictions in Paragraph 34.7 above, including, uploading or posting unlawful, obscene, defamatory, libelous, threatening, pornographic, harassing, hateful, racially/ethnically offensive Content or Content that encourages conduct that would be considered a criminal offense, that would give rise to civil liability, that would violate any law, that would encourage the use of alcohol or drugs or is otherwise inappropriate.

You understand that Your Content is your sole responsibility and Processor does not control the Content posted on your Merchant WebStore and, therefore, does not guarantee the accuracy, integrity, ownership or quality of such Content. Processor does not claim any intellectual property rights over Your Content and Your Content remains yours; however,

with respect to Your Content that you upload or post, the uploading, <sup>336</sup>posting of such Content shall be deemed and considered a license to Processor to use, distribute, reproduce, modify, adapt, publicly perform and publicly display such Content. Such license shall be terminated only upon your removal of Your Content or Merchant WebStore (either by you or by Processor).

While Processor is not responsible for and does not review Your Content, Processor reserves the right to delete any such Content that Processor, in its sole discretion, deems unacceptable for any reason and with no need to provide explanation. Processor does not endorse Your Content or any opinion, recommendation or advice expressed on your, or any, Merchant WebStore and Processor expressly disclaims any and all liability in connection with Your Content.

**40.8.2. Processor Content.** The Services also contain Content provided by Processor, including, without limitation, text, images and logos ("**Processor Content**"). Processor Content is protected by copyright, trademark, patent, trade secret and other laws, and Processor owns and retains all rights in the Processor Content and the features and functionality of the Services. Processor hereby grants you a limited, revocable, non-exclusive, non-transferable, non-sublicensable license to reproduce and display the Processor Content (excluding any software code) solely for your use in connection with utilizing the Services and creating your Merchant WebStore. Processor Content is provided to you AS IS and may not be used, copied, reproduced, distributed, transmitted, broadcast, displayed, sold, licensed or otherwise exploited for any purposes whatsoever without the prior written consent of Processor (or the respective owners if such consent is required).

**40.8.3. Third Party Content and WebStore Designs Templates.** Processor may provide you with access to certain Content such as pictures, fonts, graphical items and designs which has been created by or is subject to proprietary rights of third parties ("**Third Party Content**"). Third Party Content is provided to you AS IS and may not be used, copied, reproduced, distributed, transmitted, broadcast, displayed, sold, licensed or otherwise exploited for any purposes whatsoever without the prior written consent of Processor (or the respective owners if such consent is required).

Third Party Content may include design templates that have been created by third party designers for Processor. Design templates are made available to you via your Paycezy WebStore Dashboard and give you the ability to establish the appearance of your Merchant WebStore by using certain templates or themes. When you use a design template for your Merchant WebStore, you are granted a limited, non-exclusive, non-transferable, non-sublicensable and revocable license to use it for a single store only. You may transfer the design template to a second store, if you close your first store. You are not permitted to transfer or sell a design template to any other Merchant's WebStore or any other website. You may modify the design template to suit your Merchant WebStore. Processor may modify any design template at any time, for any reason, including to incorporate technical changes and updates. The intellectual property rights of the design template will remain the property of Processor. If you violate the rights granted to you by your use of a design template, Processor may take legal action against you, which may result in modifying or closing your Merchant WebStore.

**40.8.4. Content, in general.** With respect to Content (excluding Your Content), you shall: (i) not take any action of reverse engineering, decompiling, disabling, circumventing or disassembling of Content; (ii) not restrict use of any Content or enforce limitations on use of the Services or any Content; (iii) not make any modification, duplicate, copy, distribute, sublicense, retransmit, create derivative works from or resale such Content, except as specifically provided and allowed by Processor or these Terms; and (iv) not use the Content in a manner that is inconsistent with the restrictions set forth in these Terms, as may be updated from time to time.

With respect to all Content (including Your Content), you acknowledge and agree that Processor shall have the right, at any time, at its sole and exclusive discretion to: (i) disable access to Content; or (ii) demand that you immediately remove Content from your Merchant WebStore. If you do not obey such demand and you do not remove the Content from your Merchant WebStore within no later than 24 hours from the time in which Processor issued the demand, Processor shall have the right to terminate your use of the Services and suspend or permanently remove your Merchant WebStore, in its sole discretion, and you will not be entitled to damages or reimbursement. In the event of actual or suspected infringement activity on your Merchant WebStore, Processor will remove Content (including Your Content) without prior notice and Processor reserves the right to terminate your access to the Services or permanently remove your Merchant WebStore, in its sole discretion.

**40.9. Fees and Payment.** All fees related to Services are charged monthly, in conjunction with your payment gateway charges. All fees are exclusive of all taxes, levies, or duties imposed by taxing authorities; however, you remain responsible for payment of any such taxes, levies, or duties that might be applicable to your use of the Services or the operation of your Merchant WebStore. All prices and fees are non-refundable. Processor expressly reserves the right to change or modify its prices and fees at any time, and such changes or modifications shall be communicated to you as set forth in your payment gateway documentation.

**40.10. Term;Termination.** After you "click to agree" to these Terms, you may continue to use the Services for as long as you use our payment gateway. The Terms will automatically terminate when your use of the payment gateway expires or terminates. We reserve the right, in our sole discretion, to reject, refuse to post or remove any Content posted by you, or to deny, restrict, suspend, or terminate your access to all or any part of the Services at

any time, for any or no reason, with or without prior notice or explanation, and without liability. We expressly reserve the right to remove your Merchant WebStore and/or deny, restrict, suspend, or terminate your access to all or any part of the Services if we determine, in our sole discretion, that you have violated the Terms, pose a threat to us, our suppliers, other merchants and/or other users of the Services or for any other purpose we determine in our sole discretion.

While we look forward to providing you with excellent service for a long period of time, you may cancel your use of the Services (and we will delete your Merchant WebStore) at any time and for any reason, upon receipt of your notice of cancellation.

Upon termination or cancellation of the Services: (i) your Merchant WebStore will be immediately deleted and you will only be obligated to pay the fees owed during the month of such termination (ex: if you terminate on June 16th, you will be responsible for all fees owing in June and your obligation to pay fees will end on June 30th).

#### 40.11. Intellectual Property Rights.

**40.11.1. Processor IP Rights.** In addition to our rights in Content, described in Paragraph 34.8 above, all right, title and interest (including copyrights) in and to the Services (which includes all information and data related to transactions on your Merchant WebStore) are owned by or licensed to Processor and its Affiliates, who reserve all rights in law and equity not expressly granted to you under the Terms, including Paragraph 34.8 above. To the best of our knowledge, we only use intellectual property which is allowed and permitted for use by the owners of the copyrights and other intellectual property rights therein.

The Payeezy name, Payeezy logo, and other Processor trademarks, service marks, graphics, and logos used in connection with the Services are trademarks or registered trademarks of Processor or its Affiliates in the U.S. and/or other countries. You are granted no right or license with respect to any of the aforesaid trademarks and any use of such trademarks other than in respect of your use of the Services.

**40.11.2. Your IP Rights.** Subject to Processor's license and rights granted in Paragraph 34.8, all right, title and interest in and to Your Content are owned by or licensed to you.

**40.11.3. Copyrights.** Processor does not permit copyright infringing activities and infringement of intellectual property rights with respect to the Services and your Merchant WebStore and Processor will remove all infringing Content if properly notified that such Content infringes on another's intellectual property rights.

Processor respects the intellectual property rights of others, and it is our policy to respond to claims of alleged infringement that complies with the Digital Millennium Copyright Act (the "DMCA"). If you believe that your work has been copied in a way that infringes your copyrights, please contact us and provide all relevant details, including the exact location of the material claimed to be infringing your rights, reasonable evidence of such pleaded rights, and any other information as may be required.

#### 40.12. Warranties; Limitation of Liability.

**40.12.1. Your Warranties.** You represent and warrant that the products and services that are made available to your customers on your Merchant WebStore comply with all applicable law or regulation in any jurisdiction in or to which you are making the products and services available and you have all necessary licenses and permits in place to engage in the advertising and provision of the products and services on your Merchant WebStore. You represent and warrant that you are not currently subject to an order, litigation or investigation by any federal, state, local or international regulatory or law enforcement organization arising out of or relating to your activities and your Merchant WebStore.

**40.12.2. Processor's Disclaimer of Warranties.** The Services and Content are provided on an "as is" and "as available" basis. Processor expressly disclaims all warranties of any kind, whether express or implied, including without limitation, all implied warranties of merchantability, fitness for a particular purpose and noninfringement. Further, Processor makes no warranty that: (a) the Services will meet your requirements; (b) the Services will be available on an uninterrupted, timely, secure, or error-free basis; (c) the results that may be obtained from use of the Services will be accurate, timely, or reliable; or (d) the quality of the Services will meet your expectations. You assume total responsibility for your use of the Services. Processor shall have no responsibility or liability for any damage to your computer system or loss of data that results from your use of the Services. Any material or Content downloaded, or otherwise obtained through the use of the Services is accessed at your own discretion and risk, and you will be solely responsible for and hereby waive any and all claims and causes of action with respect to any damage to your computer system, internet access, download or display device, any material or Content downloaded, or otherwise obtained through the use of the Services is accessed at your own discretion and risk, and you will be solely responsible for and hereby waive any and all claims and causes of action with respect to any damage to your computer system, internet access download or display device, or loss of data that results from the download of any such material or Content.

When using the Services, you may be exposed to Third Party Content and links to other third party websites. Processor is not responsible for the accuracy, usefulness, safety or intellectual property rights related to such Third Party Content and third party websites. When you access third party websites, you do so at your own risk. Accordingly, we encourage you to be aware when you access such websites and to read the terms and conditions and privacy policy of each third party website that you visit.

The Services are controlled from Processor's facilities in the United States. Processor makes no representation that the Services are appropriate or available for use in other locations.

Those who access or use the Services from other jurisdictions do so of their own volition and at their own risk and are responsible for compliance with local law.

**40.12.3. Limitation of Liability.** In no event shall we, our Affiliates or our licensors be liable for any damage, claim or loss incurred by you, including without limitation direct, indirect, compensatory, incidental, special, consequential or exemplary damages, or damages for personal injury, business interruption, loss of information, loss of privacy, loss of profits or revenue incurred by you or any third party irrespective of whether we have been informed of, knew of, or should have known of the likelihood of such damages. This limitation applies to all causes of action in the aggregate including without limitation breach of contract, breach of warranty, defamation, negligence, strict liability, misrepresentation, and other torts, as well as third-party claims arising from your access to, or use of, or inability to use the Services or any Content. If the disclaimers or limitations of liability set forth above are for any reason held by a court or other tribunal of competent jurisdiction to be void, unenforceable or inapplicable, such provisions shall be limited or eliminated to the minimum extent necessary and replaced with a valid provision that best embodies the intent of these Terms, provided, in no event will the aggregate liability of Processor or its Affiliates to you and any third party in connection with these Terms or your access to and use of the Services or any Content exceed the amount of two hundred fifty dollars (\$250.00), regardless of the form or theory of the action or claim.

**40.13. Indemnification and Waiver.** By using the Services, you agree, to the fullest extent permitted by law, to indemnify and hold Processor, its directors, officers, employees, Affiliates, agents, contractors, principals, and licensors harmless with respect to any claims (including third party claims) arising out of your breach of these Terms, your use of the Services or Content, your Merchant WebStore, your customers access and use of your Merchant WebStore or claims that may arise from any action taken by Processor as part of its investigation of a suspected violation of these Terms or as a result of its finding or decision that a violation of these Terms has occurred.

You cannot sue or recover any damages from Processor, its directors, officers, employees, Affiliates, agent, contractors, principals, and licensors as a result of its decision to (a) remove Your Content or your Merchant WebStore, (b) refuse to process any information or Content, (c) warn you, suspend or terminate your access to the Services, or (d) take any other action during an investigation of a suspected violation or as a result of Processor's conclusion that a violation of these Terms has occurred. This indemnity and waiver provision applies to all violations described in or contemplated by these Terms.

**40.14. Amendments.** We reserve the right to make changes to these Terms at any time by emailing them to you. You and all future merchants will be subject to the Terms in force at the time that you use the Services. Your continued use of the Services indicates your acceptance of such updates and changes. We last modified these Terms on the date stated at the beginning of these Terms. If you are dissatisfied with the Services or any Terms (including as modified), you agree that your sole and exclusive remedy is to discontinue using the Services. The Terms are the entire agreement between you and Processor with respect to your use of the Services.

### 41. Special Provisions Regarding Insightics Service Terms and Conditions

If you elect to utilize the First Data Insightics<sup>SM</sup> Solution ("Insightics") the terms and condition in this Section 36 shall apply ("Insightics Terms and Conditions"); and if you were granted a First Data Insightics Temporary Demonstration License, an election for Services under this Section 41 shall serve to supersede it. Insightics is provided to you by Processor and not Bank. Bank is not liable to you in any way with respect to Insightics. Insightics, transactions processed, and other matters contemplated under Section 41 are subject to the terms and conditions of the Agreement, as applicable, except to the extent the terms directly conflict with the Insightics Terms and Conditions, in which case the Insightics Terms and Conditions will control.

**41.1. Definitions.** Capitalized terms used herein shall have the meanings given to such terms as set forth in Section 41.1 or as defined elsewhere in this Section 41, or the Agreement.

**"Customer"** means a Person who makes a purchase of goods or services from you, the transaction detail of which is utilized in Insightics.

**"Customer Information"** means information about your Customers (e.g., name, mailing address, card account number, e-mail address, telephone number) obtained in connection with your use of the Services and may be utilized in Insightics.

**"Data"** means transaction data that may include processing data from First Data Merchant Services LLC's credit and debit information warehouse and other available sources that First Data Merchant Services LLC owns or has a contractual or other right to use in Insightics.

**"Device"** means a tablet, computer, smartphone or other mobile device, or other device that you use to access the Insightics website to receive or to which you receive communications from Insightics.

**"First Data"** means First Data Corporation, which is the parent company of First Data Merchant Services LLC.

**"First Data Insightics Marks"** means the trademarks or service marks related to Insightics<sup>SM</sup> and sub-licensed to you by Processor.

**"First Data Insightics Solution" or "Insightics Solution"** means the website or the application associated with Insightics<sup>SM</sup>, the object code version of the Insightics software applications and communications you receive from the applications. Among other things,

Insightics allows merchants to track and visualize information regarding their own revenue, ticket size, and Customers contained in the Data and other third party data sources. Insightics may also permit a merchant to compare its performance to groups of similar businesses within their industry and/or certain geographic areas using the Data and other third party data sources, subject to certain limitations. The features and functionality of Insightics may be modified from time to time by First Data or its third party provider(s). For the avoidance of doubt, the term "software" in this definition does not include any software that may be obtained by you separately from Insightics (e.g., any applications downloaded by you). The First Data Insightics Solution is deemed part of the "Services," as defined in and provided under the Agreement.

**"Insightics Solution Fees"** means the fees charged for your use of the First Data Insightics Solution, which includes additional fees for multiple locations.

**"Third Party Services"** are the services, products, promotions or applications provided to you by or through someone other than Processor.

**"User Documentation"** means that documentation regarding the operation, guidelines and features and functionality of Insightics that is made available to you from time to time at the website, by internet link or otherwise. User Documentation may be modified from time to time by First Data or its third party provider(s).

**41.2. License Grant.** Subject to the Insightics Terms and Conditions in this Section 41, Processor grants you a personal, limited, non-exclusive, revocable, non-transferable sub-license, without the right to further sub-license or assign in any way, to electronically access and use, solely in the United States, Insightics to manage your establishment(s) and analyze associated point of sale activities within the United States. For purposes of this Section 41, "United States" does not include U.S. Territories or possessions. Insightics is for your internal business use only. This Section 41 does not grant you any rights to First Data Insightics Marks. Except for the license expressly granted herein, all intellectual property and proprietary rights in or related to Insightics and First Data Insightics Marks are and will remain the sole and exclusive property of First Data or its affiliates, vendors, or third party provider(s) (as applicable), and any and all right, title and interest associated with Insightics not expressly granted in this Section 41 is deemed withheld.

#### **41.3. Restrictions.**

**41.3.1.** You may not, nor may you permit any third party, other than employees and agents with a business need, to do any of the following: (a) access or attempt to access Insightics (or any part) that is not expressly made available for public use; (b) decompile, disassemble, reverse engineer, or otherwise attempt to reconstruct or discover by any means any source code or any underlying data, ideas or algorithms of Insightics (or any part), except to the extent that such restriction is expressly prohibited by law; (c) modify, translate, or alter in any manner, Insightics (or any part), or First Data Insightics Marks; (d) create derivative works of or based on Insightics (or any part) or Insightics Marks; (e) except for backup and archival purposes, directly or indirectly copy Insightics (or any part), except screen shots may be copied and retained solely for internal business purposes; (f) republish, upload, post, transmit, disclose, or distribute (in any format) Insightics (or any part) except as expressly permitted herein; (g) access or use (in any format) Insightics (or any part) through any time-sharing service, service bureau, network, consortium, or other means; (h) rent, lease, sell, sublicense, assign, or otherwise transfer your license rights to any third party, whether by operation of law or otherwise; (i) use or ship Insightics (or any part) outside of the United States, or access Insightics (or any part) from outside the United States, without in any case obtaining our advance written consent; (j) remove, relocate, or otherwise alter any proprietary rights notices from Insightics (or any part), or First Data Insightics Marks; (k) perform or attempt to perform any actions that would interfere with the proper working of Insightics, prevent access to or use of Insightics by other users, or in our reasonable judgment impose an unreasonable or disproportionately large load on Insightics' infrastructure, network capability or bandwidth; or (l) use Insightics (or any part) except as permitted in Section 41.2.

**41.3.2.** You shall not take any action inconsistent with the stated title and ownership in Section 41.2. You will not file any action in any forum that challenges the ownership of any part of Insightics, any related software, materials or User Documentation. Failure to comply with this provision will constitute a material breach of this Agreement and may restrict Processor's ability to sublicense Insightics to you. Processor has the right to immediately terminate Services under this Section 41, and First Data has the right to immediately terminate your access to and use of Insightics in the event of a challenge by you.

#### **41.4. Insightics Limitations and Requirements.**

**41.4.1.** You may access Insightics through your Device using a wired (ethernet) or wireless (wifi or cellular) connection to the Internet. You are solely responsible for the payment of any fees that may be imposed by your Internet/data provider. Your use of Insightics may be subject to: (a) the terms of your agreements with your Internet/data provider; and (b) the availability or uptime of the services provided by your Internet/data provider.

**41.4.2.** You may use Insightics to conduct analysis of the Data and third party data made available through Insightics application and/or other tools made available at the website or in the application.

**41.4.3.** First Data may alter which Devices and browsers are approved as compatible with Insightics in its discretion from time-to-time.

**41.4.4.** First Data may perform maintenance on Insightics from time to time which may result in service interruptions, delays, or errors. Neither First Data nor its affiliates, vendors, or third party provider(s), will be liable for any such interruptions, delays, errors, or bugs. You

agree that First Data or its affiliates, vendors, or third party provider(s) <sup>388</sup> may contact you in order to assist you with Insightics and obtain information needed to identify and fix any errors.

**41.4.5.** You shall at all times comply with the User Documentation.

**41.4.6.** You shall comply with the following requirements in connection with your use of Insightics:

**41.4.6.1.** In the event you are able to discern any information about a particular entity or individual from the information available from Insightics, either alone or with other information in your possession, you understand and acknowledge that the information may be subject to certain privacy, marketing, insider trading, or other applicable laws and you will limit your use thereof in accordance with all applicable laws.

**41.4.6.2.** With respect to each Customer who desires to receive marketing material or other communications from you via text message or email, such Customer must check the appropriate consent or the consent must be provided in writing; you are NOT permitted to add or modify a Customer's consent indication on his behalf.

**41.4.6.3.** You (or your agents acting on your behalf) may only send marketing materials or other communications to the Customer's provided phone number, street address, and/or email address if the Customer has specifically consented in writing executed by the Customer.

**41.4.6.4.** NOTWITHSTANDING THE CAPABILITY OF INSIGHTICS TO COLLECT AND STORE CUSTOMER INFORMATION, SOME STATES MAY LIMIT YOUR USE OF SUCH INFORMATION ONCE COLLECTED, EVEN IF THE CUSTOMER HAS PROVIDED ITS CONSENT, AND/OR YOUR DISCLOSURE OF SUCH INFORMATION TO THIRD PARTIES. YOU ACKNOWLEDGE AND AGREE THAT (I) YOUR USE OF CUSTOMER INFORMATION OBTAINED IN CONNECTION WITH INSIGHTICS MAY BE SUBJECT TO LOCAL, STATE, AND/OR FEDERAL LAWS, RULES, AND REGULATIONS, (II) YOU ARE SOLELY RESPONSIBLE FOR KNOWING SUCH LAWS, RULES, AND REGULATIONS, AND (III) YOU WILL AT ALL TIME STRICTLY COMPLY WITH ALL SUCH LAWS, RULES, AND REGULATIONS.

**41.4.7.** You shall comply fully with the requirements of all applicable federal, state and local laws and regulations related to your use of Insightics and provision and use of Customer Information and point of sale data in connection with Insightics. Furthermore, you are solely responsible for monitoring legal developments applicable to Insightics and the operation of your business, interpreting applicable laws and regulations, determining the requirements for compliance with all applicable laws and regulations, and maintaining an on-going compliance program.

**41.4.8.** In connection with Insightics, you shall receive a username and password to access Insightics. You are responsible for securely storing and keeping the username and password in accordance with this Section 41.10 below. You will not permit anyone unauthorized by you to use the username and password and you may only authorize your employees and agents with a business need to use the username and password. At such time as multiple usernames and passwords are available, you shall restrict the use of usernames and passwords to single individuals and you shall monitor use of Insightics to ensure compliance with this Section 41 by those to whom you have provided usernames and passwords and you shall keep records regarding who has access to which usernames and passwords at all times.

**41.5. Equipment.** You must obtain all equipment necessary for you to access and use the Insightics website. No communication channel or device to access the website is included within the provision of the First Data Insightics Solution, and you shall be responsible for all such equipment and communication channels, including but not limited to all device or channel compatibility.

**41.6. Term and Termination.** Insightics Terms and Conditions in this Section 41 shall become effective upon execution hereof and shall end when terminated as set forth herein. For the avoidance of doubt, except as set forth below, termination of Services under Section 36 will not terminate the underlying Agreement. You may terminate your First Data Insightics Solution services at any time upon thirty (30) days' notice by calling the Customer Service number on your statement. Notwithstanding the foregoing sentence, upon as much advance notice as is commercially practicable, First Data may terminate your access to, and use of Insightics if (i) it is determined that you are using Insightics for any fraudulent, illegal, or unauthorized purpose, (ii) you violate the Insightics Terms and Conditions or an Event of Default occurs under the Agreement, (iii) First Data terminates its agreement with any third parties that are involved in providing Insightics, or (iv) First Data otherwise decides to discontinue providing Insightics. You acknowledge and agree that an occurrence of (i) or (ii) above may be deemed an Event of Default under the Agreement, thereby affording Processor and Bank all rights and remedies as set forth in the Agreement triggered by such an Event of Default, which may include immediate termination of the Services under Section 41 without notice.

**41.7. Third Party Services.** Insightics may be used in connection with Third Party Services that you obtain separately for your purposes (e.g., an accounting application on your Device). If you decide to use Third Party Services, you will be responsible for reviewing and understanding the terms and conditions associated with Third Party Services (including obtaining and maintaining any required third party hardware and/or software that is required for the Third Party Services to work with Insightics). Your access of any Third Party Services is at your own risk. Third Party Services are not governed by the terms and conditions of this Section 41 or the Agreement. ANY CONTENT DOWNLOADED OR

OTHERWISE OBTAINED THROUGH THE USE OF THIRD PARTY SERVICES (E.G., ACCOUNTING APPLICATION) IS DOWNLOADED AT YOUR OWN RISK. NEITHER FIRST DATA NOR ITS AFFILIATES, VENDORS, OR THIRD PARTY PROVIDER(S), WILL BE RESPONSIBLE FOR ANY ACTIONS OR ANY FAILURES TO ACT OF ANY THIRD PARTY, AND SUCH LIABILITY RELATED TO ALL THIRD PARTY SERVICES IS EXPRESSLY DISCLAIMED.

**41.8. Account Registration.** First Data may require you to register at Insightics website or through the application. If and when prompted by the registration process, you agree to (a) provide true, accurate, current and complete information about yourself and/or your business, and (b) maintain and update this information to keep it true, accurate, current and complete. If any information provided by you is untrue, inaccurate, not current or incomplete, First Data has the right to terminate your First Data Insightics account (“Account”) and refuse any and all current or future use of Insightics.

**41.9. Privacy and Data Use.** All data collected from you in connection with the Services or in connection with your use of Insightics, including Customer Information and information about your business and employees used with or stored in or by Insightics (collectively, “Account Data”), is collected by First Data, its affiliates, vendors, and/or third party provider(s); therefore, the use and sharing of such Account Data is controlled by the applicable Privacy Policy displayed and available at or through a link on the Insightics website. You acknowledge and agree that First Data, its affiliates, vendors, and/or third party provider(s) may access your Account Data, and our use of your Account Data is governed by the Insightics Terms and Conditions and the Agreement. You also agree that First Data, its affiliates, vendors, and/or third party provider(s) may access and use Account Data to provide or enhance Insightics or the Services.

**41.10. Protecting Your Information.** You are solely responsible for ensuring that your account numbers, passwords, security questions and answers, login details and any other security or access information used by you to use or access Insightics are kept safe and confidential. You must prevent unauthorized access to and use of any Account Data. You are responsible for all electronic communications sent to First Data, its affiliates, vendors, or third party provider(s) containing Account Data. When First Data receives communications containing Account Data, it will assume you sent it to First Data. You must immediately notify First Data if you become aware of any loss, theft or unauthorized use of any Account Data (see Insightics support center contact information below). First Data reserves the right to deny you access to Insightics, in whole or in part, if First Data believes that any loss, theft or unauthorized use of any Account Data or access information has occurred.

**41.11. Accuracy of Information.** You are solely responsible for ensuring the accuracy of all information and data regarding your business that you provide to First Data, its affiliates, vendors, and/or third party provider(s) in connection with Insightics (e.g., Customer Information). First Data, its affiliates, vendors, and/or third party provider(s) disclaim any and all liability arising out of any inaccuracies as a result of use of such information or data.

**41.12. First Data Insightics Solution Disclaimer.**

**41.12.1. AS IS. USE OF INSIGHTICS IS AT YOUR OWN RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, INSIGHTICS IS PROVIDED “AS IS” AND NEITHER FIRST DATA NOR ITS AFFILIATES, VENDORS, OR THIRD PARTY PROVIDER(S) MAKES ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND (EXPRESS OR IMPLIED) WITH REGARD TO INSIGHTICS, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF ACCURACY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, OR THAT INSIGHTICS WILL FUNCTION UNINTERRUPTED OR ERROR-FREE, OR THAT INSIGHTICS IS SECURE, FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS OR THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED.**

**41.12.2. Financial Advice.** First Data Insightics Solution does not provide any business, investment or financial advice and is not advocating any business decision or the sale or purchase of any real property, stocks, bonds, or securities. First Data expressly states, and you hereby acknowledge, that Insightics is provided solely for informational purposes and are not to be used as a substitute for independent financial investment advice nor are they intended to be relied upon by any person or entity, including you or your Customers for the purposes of investment or other financial decisions. Insightics is not to be construed as providing business or investment advice and should not be used or construed, in whole or in part, as a basis or recommendation for an investment or business decision.

**41.12.3. Accuracy.** While First Data takes commercially reasonable measures to ensure the accuracy of the information and content contained in Insightics, it makes no representation or warranty of any kind with respect to Insightics. You acknowledge and agree that all use of Insightics by you and all other persons shall be: (i) based upon your own determination and evaluation and (ii) at your sole risk. At times the Data may include third party data that is appended to the Data and First Data has not investigated and does not make any representation or warranty with respect to the accuracy of the third party data.

**41.13. Indemnity.** Without limiting your indemnification obligations in the Agreement, you agree to indemnify and hold First Data, its affiliates, vendors, and third party provider(s) harmless from and against all losses, liabilities, damages, and expenses (including reasonable attorneys’ fees) arising out of or relating to:

**41.13.1.** Your failure to comply with all terms and conditions in this Section 36, including but not limited to User Documentation;

**41.13.2.** Your use (alone or in combination with any other information) of any Customer Information, reports, information or analytics obtained in connection with your use of Insightics;

**41.13.3.** The content or delivery of any marketing messages that you send or cause to be sent to any Customer phone number or email address collected through the use of Insightics; or

**41.13.4.** Any other party’s access and/or use of Insightics with your unique username, password, or other appropriate security code.

**41.14. Notices.** First Data, its affiliates, vendors, and/or third party provider(s) may provide notices and other information regarding Insightics to you via the method(s) described in the Agreement.

**41.15. Amendment.** First Data has the right to: (i) require changes or addition to the Insightics Terms and Conditions in Section 41 at any time, and (ii) change, delete, discontinue, or impose conditions on any feature or aspect of Insightics with notice provided to you as set forth in the Notices section of the Section 41. Any use of Insightics after the publication of any such changes shall constitute your acceptance of the Insightics Terms and Conditions as modified.

**41.16. Ideas.** You may choose to, or First Data, its affiliates, vendors, or third party provider(s) may invite you to, submit comments or ideas about Insightics, including, without limitation, about how to improve Insightics (“Ideas”). By submitting any Idea, you agree that: (a) First Data expressly disclaims any confidentiality obligations or use restrictions, express or implied, with respect to any Idea, (b) your submission will be non-confidential, and (c) First Data is free to use and disclose any Idea on an unrestricted basis without notifying or compensating you and without you claiming any rights therein. You release First Data, its affiliates, vendors, or third party provider(s) from all liability and obligations that may arise from the receipt, review, use or disclosure of any portion of any Idea.

**41.17. Third Party Beneficiaries.** First Data, its affiliates, vendors, or third party provider(s) used in providing Insightics are intended third party beneficiaries of this Section 41 as applicable, and each of them may enforce its provisions as if it was a party hereto. Except as expressly provided in this Section 41, nothing in this Section 41 is intended to confer upon any Persons any rights or remedies, and the parties do not intend for any Persons to be third-party beneficiaries of this Section 41.

**41.18. Limitation of Liability.** The cumulative liability to you from First Data, its affiliates, vendors, and third party provider(s) for any and all claims arising out of or resulting from this Section 41 shall not exceed the total for the Insightics Solution Fees you paid to the Processor in the twelve months immediately preceding any claim.

## 42. Special Provisions Regarding Clover Service

If you elect to use the Clover Service, the following additional terms and conditions of this Section 42 shall apply.

The Clover Service is provided to you by Processor and not Bank. The Clover Service, transactions processed, and other matters contemplated under this Section 42 are subject to the terms and conditions of the Agreement, as applicable, except to the extent the terms of this Section 42 directly conflict with another provision of the Agreement, in which case the terms of this Section 42 will control; provided however, Bank is not a party to this Agreement insofar as it applies to the Clover Service, and you acknowledge that Bank is not liable to you in any way with respect to the Clover Service. For the purposes of this Section, 42, the words “we,” “our” and “us” refer only to the Processor and not the Bank.

**42.1. Definitions.** Capitalized terms used herein shall have the meanings given to such terms as set forth in this Section 42 or as defined in the Glossary or elsewhere in this Agreement.

“Clover” means Clover Network, Inc.

“Clover Marks” means the trademarks or service marks of Clover, an affiliate of Processor.

“Clover Service” means the website associated with the Clover Service, the object code version of Clover software applications (whether owned or licensed by Clover) resident on a Device at the time we provide you with the Device and the object code version of the software that enables the applications resident on a Device at the time of provisioning, and any related updates (including software maintenance or bug fixes) that are designed to assist with the management of your business and enable payment processing at the point of sale, and any materials, documentation and derivative works released by Processor from time to time. For the avoidance of doubt, the term software in the preceding sentence does not include any software that may be obtained by you separately from the Clover Service (e.g., any applications downloaded by you through an application marketplace). The Clover Service is deemed part of the “Services,” as defined in and provided under the Agreement.

“Customer” means a Person who makes a purchase of goods or services from you, the transaction for which utilizes the Clover Service.

“Customer Information” means information about your Customers (e.g., name, mailing address, e-mail address, telephone number) obtained in connection with your use of the Clover Service.

“Device” means a tablet, smartphone, or other mobile or fixed form factor identified by Processor from time to time as compatible with and capable of supporting the Clover Service.

“Third Party Services” are the services, products, promotions or applications provided by someone other than Processor.

**42.2. License Grant.** During the term of the Agreement, Processor grants you a personal, limited, non-exclusive, revocable, non-transferable license, without the right to sublicense or assign in any way, to electronically access and use the Clover Service solely in the United States to manage your establishment and conduct associated point of sale activities within the United States in accordance with the terms of this Section 42. For purposes of this Section 42, "United States" does not include U.S. Territories or possessions. The Clover Service is for your internal business use only. This Section 42 does not grant you any rights to the Clover Marks. All intellectual property and proprietary rights in or related to the Clover Service and the Clover Marks are and will remain our, our affiliates', our vendors', or our licensors' (as applicable) sole and exclusive property, and any and all right, title and interest associated with the Clover Service not expressly granted by Processor in this Section 42 are deemed withheld.

**42.3. Restrictions.** You may not, nor may you permit any third party to do any of the following: (a) access or attempt to access the Clover Service (or any part) that is not intended or made available for public use; (b) decompile, disassemble, reverse engineer, or otherwise attempt to reconstruct or discover by any means any source code, underlying ideas or algorithms of the Clover Service (or any part), except to the extent that such restriction is expressly prohibited by law; (c) modify, translate, or alter in any manner, the Clover Service (or any part) or the Clover Marks; (d) create derivative works of or based on the Clover Service (or any part) or the Clover Marks; (e) except for backup and archival purposes, directly or indirectly copy the Clover Service (or any part); (f) republish, upload, post, transmit, disclose, or distribute (in any format) the Clover Service (or any part) except as permitted herein; (g) access or use (in any format) the Clover Service (or any part) through any time-sharing service, service bureau, network, consortium, or other means; (h) rent, lease, sell, sublicense, assign, or otherwise transfer your license rights to any third party, whether by operation of law or otherwise; (i) use or ship the Clover Service (or any part) outside of the United States, or access the Clover Service (or any part) from outside the United States, without in any case obtaining our advance written consent; (j) remove, relocate, or otherwise alter any proprietary rights notices from the Clover Service (or any part) or the Clover Marks; (k) perform or attempt to perform any actions that would interfere with the proper working of the Clover Service, prevent access to or use of the Clover Service by other users, or in our reasonable judgment impose an unreasonable or disproportionately large load on our infrastructure, network capability or bandwidth; or (l) use the Clover Service (or any part) except as permitted in subsection 42.2 above.

You shall not take any action inconsistent with the stated title and ownership in subsection 42.2 above. You will not file any action, in any forum that challenges the ownership of any part of the Clover Service, any related software, materials or documentation. Failure to comply with this provision will constitute a material breach of this Agreement. We have the right to immediately terminate your access to and use of the Clover Service in the event of a challenge by you.

#### **42.4. Clover Service Limitations and Requirements.**

**42.4.1.** You may access the Clover Service through your Device using a wired (ethernet) or wireless (wifi or cellular) connection to the Internet. You are solely responsible for the payment of any fees that may be imposed by your Internet/data provider. Your use of the Clover Service may be subject to: (a) the terms of your agreements with your Internet/data provider; and (b) the availability or uptime of the services provided by your Internet/data provider.

**42.4.2.** You may use the Clover Service to conduct point of sale activities offline; transactions initiated offline will be queued and submitted for authorization when Internet connectivity to the Clover System is restored. However, you assume all risk, responsibility and liability associated with any transaction that you choose to conduct while the Clover Service is used offline.

**42.4.3.** The Clover Service does not function with every mobile device. Processor may alter which Devices are approved as compatible with the Clover Service in our discretion from time-to-time.

**42.4.4.** We may perform maintenance on the Clover Service from time to time which may result in service interruptions, delays, or errors. We will not be liable for any such interruptions, delays, errors, or bugs. You agree that we may contact you in order to assist you with the Clover Service and obtain information needed to identify and fix any errors.

**42.4.5.** You shall at all times comply with any operating procedures, requirements, or guidelines regarding your use of the Clover Service that are posted on the Clover website or otherwise provided or made available to you (collectively, "Clover Ops Guide").

**42.4.6.** You shall comply with the following requirements in connection with your use of the Clover Service:

- a) With respect to each Customer who requests the delivery of transaction receipts via text message or email, such Customer must enter his phone number or email address in the appropriate space displayed on the Device himself; you are NOT permitted to add or modify any Customer Information (including but not limited to phone number and email address) on behalf of a Customer.
- b) With respect to each Customer who desires to receive marketing material or other communications from you via text message or email, such Customer must check the appropriate consent check box displayed on the Device himself; you are NOT permitted to add or modify a Customer's consent indication on his behalf.
- c) You (or your agents acting on your behalf) may only send marketing materials or other communications to the Customer's provided phone number, street address, and/or email

address if the Customer has specifically consented by checking (himself) the applicable box displayed on the Device.

d) NOTWITHSTANDING THE CAPABILITY OF THE CLOVER SERVICE TO COLLECT AND STORE CUSTOMER INFORMATION AND TO ALLOW YOUR CUSTOMERS TO ELECT TO RECEIVE MARKETING MATERIALS FROM YOU, SOME STATES MAY LIMIT YOUR USE OF SUCH INFORMATION ONCE COLLECTED, EVEN IF THE CUSTOMER HAS PROVIDED HIS CONSENT, AND/OR YOUR DISCLOSURE OF SUCH INFORMATION TO THIRD PARTIES. YOU ACKNOWLEDGE AND AGREE THAT (I) YOUR USE OF CUSTOMER INFORMATION OBTAINED IN CONNECTION WITH THE CLOVER SERVICE MAY BE SUBJECT TO LOCAL, STATE, AND/OR FEDERAL LAWS, RULES, AND REGULATIONS, (II) YOU ARE SOLELY RESPONSIBLE FOR KNOWING SUCH LAWS, RULES, AND REGULATIONS, AND (III) YOU WILL AT ALL TIME STRICTLY COMPLY WITH ALL SUCH LAWS, RULES, AND REGULATIONS.

e) If TransArmor software is resident on your Device at the time we provide you with the Device and therefore part of the Clover Service, it will be used to perform such encryption and tokenization ("TransArmor Service") and the additional terms set forth in Section 38 apply. However you will only receive the applicable TransArmor service subscribed by you as set forth in the Application.

f) You are responsible to provide and obtain any disclosures and consents related to the E-SIGN Act that may be required in connection with your communications and agreements with your Customers.

**42.5. Fees.** You shall pay Processor the fees for Clover Service as set forth on the Application.

**42.6. Term and Termination.** The Clover Service may be terminated at any time by either party upon thirty (30) days' written notice to the other party. Notwithstanding the foregoing sentence, upon as much advance notice as is commercially practicable, we may suspend or terminate the Clover Service if (a) we determine that you are using Clover Service for any fraudulent, illegal, or unauthorized purpose, (b) you violate the terms of this Section 42 or an Event of Default occurs under the Agreement, (c) we terminate our agreement with any third parties that are involved in providing the Clover Service, or (d) Processor otherwise decides to discontinue providing the Clover Service. You acknowledge and agree that an occurrence of (a) or (b) above may be deemed an Event of Default under the Agreement, thereby affording Processor and Bank all rights and remedies as set forth in the Agreement triggered by such an Event of Default, which may include immediate termination of the Agreement without notice.

**42.7. Third Party Services.** The Clover Service may contain links to Third Party Services (e.g., an application marketplace). If you decide to use Third Party Services, you will be responsible for reviewing and understanding the terms and conditions associated with Third Party Services (including obtaining and maintaining any required third party hardware and/or software that is required for the Third Party Services to work with the Clover Service). Your access of any Third Party Services is at your own risk. Third Party Services are not governed by the terms and conditions of this Section 37 or the Agreement. ANY CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THIRD PARTY SERVICES (E.G., APPLICATION MARKETPLACE AND ANY APPS AVAILABLE AT SUCH APPLICATION MARKETPLACE) IS DOWNLOADED AT YOUR OWN RISK. PROCESSOR WILL NOT BE RESPONSIBLE FOR ANY ACTIONS OR ANY FAILURES TO ACT OF ANY THIRD PARTY, AND PROCESSOR EXPRESSLY DISCLAIMS ANY LIABILITY RELATED TO ALL THIRD PARTY SERVICES. PROCESSOR DOES NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY THIRD PARTY SERVICE OR PRODUCT ADVERTISED OR OFFERED THROUGH THE CLOVER SERVICE OR ANY HYPERLINKED WEBSITE OR SERVICE, OR FEATURED IN ANY BANNER OR OTHER ADVERTISING, AND PROCESSOR WILL NOT BE A PARTY TO OR IN ANY WAY MONITOR ANY TRANSACTION BETWEEN YOU AND PROVIDERS OF THIRD PARTY SERVICES OR PRODUCTS.

**42.8. Account Registration.** We may require you to register and create a "Member" or "Merchant" account to use the Clover Service. If and when prompted by our registration process, you agree to (a) provide true, accurate, current and complete information about yourself and/or your business, and (b) maintain and update this information to keep it true, accurate, current and complete. If any information provided by you is untrue, inaccurate, not current or incomplete, we have the right to terminate your Clover Service account ("Account") and refuse any and all current or future use of the Clover Service.

**42.9. Privacy and Data Use.** All data collected from you at [www.clover.com](http://www.clover.com) or in connection with your use of the Clover Service, including Customer Information and information about your business and employees used with or stored in or by the Clover Services (collectively, "Account Data"), is collected by Clover and not Processor or Bank; therefore, the use and sharing of such Account Data is controlled by the Clover Privacy Policy (available at [https://www.clover.com/privacy\\_policy](https://www.clover.com/privacy_policy)). You acknowledge and agree that we may access your Account Data upon our request to Clover, and our use of your Account Data is governed by the terms set forth in the Agreement.

**42.10. Protecting Your Information.** You are solely responsible for ensuring that your account numbers, passwords, security questions and answers, login details and any other security or access information used by you to use or access the Clover Service are kept safe and confidential. You must prevent unauthorized access to and use of any Account Data. You are responsible for all electronic communications sent to us or to any third party (including Clover) containing Account Data. When we receive communications containing

Account Data, we assume you sent it to us. You must immediately notify us if you become aware of any loss, theft or unauthorized use of any Account Data. We reserve the right to deny you access to the Clover Service, in whole or in part, if we believe that any loss, theft or unauthorized use of any Account Data or access information has occurred.

**42.11. Accuracy of Information.** You are solely responsible for ensuring the accuracy of all information and data regarding your business that you provide to us or our service providers in connection with the Clover Service (e.g., menus loaded onto the Device). In addition, you are solely responsible for verifying that all information and data loaded onto a Device by us or our service providers at your request are accurate prior to your business use of such Device. We and our service providers disclaim any and all liability arising out of any inaccuracies with respect to such information or data.

**42.12. Clover Service Disclaimer.** USE OF THE CLOVER SERVICE OR ANY EQUIPMENT PROVIDED WITH THE CLOVER SERVICE IS AT YOUR OWN RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE CLOVER SERVICE IS PROVIDED "AS IS" AND PROCESSOR MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND (EXPRESS OR IMPLIED) WITH REGARD TO THE CLOVER SERVICE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF ACCURACY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, OR THAT THE CLOVER SERVICE WILL FUNCTION UNINTERRUPTED OR ERROR-FREE, OR THAT THE CLOVER SERVICE IS SECURE, FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS OR THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED.

**42.13. Indemnity.** Without limiting your indemnification obligations in the Agreement, you agree to indemnify and hold us harmless from and against all losses, liabilities, damages, and expenses (including reasonable attorneys' fees) arising out of or relating to:

- a) Your failure to comply with all terms and conditions in this Section 42, including but not limited to the Clover Ops Guide;
- b) Your use of any Customer Information obtained in connection with your use of the Clover Service;
- c) The content or delivery of any marketing messages that you send or cause to be sent to any Customer phone number or email address collected through the use of the Clover Service; or
- d) Any other party's access and/or use of the Clover Service with your unique username, password, or other appropriate security code.

**42.14. Notices.** We may provide notices and other information regarding the Clover Service to you via the method(s) described in the Agreement or in the E-Sign Consent Agreement set forth below.

**42.15. Amendment.** We have the right to change or add to the terms of this Section 42 at any time, and to change, delete, discontinue, or impose conditions on any feature or aspect of the Clover Service with notice provided to you as set forth in subsection 42.14 above. Any use of the Clover Service after our publication of any such changes shall constitute your acceptance of this Agreement as modified.

**42.16. Ideas.** You may choose or we may invite you to submit comments or ideas about the Clover Service, including, without limitation, about how to improve the Clover Service ("Ideas"). By submitting any Idea, you agree that: (a) we expressly disclaim any confidentiality obligations or use restrictions, express or implied, with respect to any Idea, (b) your submission will be non-confidential, and (c) we are free to use and disclose any Idea on an unrestricted basis without notifying or compensating you. You release us from all liability and obligations that may arise from our receipt, review, use or disclosure of any portion of any Idea.

**42.17. Third Party Beneficiaries.** Processor's Affiliates and any Persons Processor uses in providing the Clover Service are intended third party beneficiaries of this Section 42, and each of them may enforce its provisions as if it was a party hereto. Except as expressly provided in this subsection 42.17, nothing in this Section 42 is intended to confer upon any Persons any rights or remedies, and the parties do not intend for any Persons to be third-party beneficiaries of this Section 42.

### 43. Special Provisions Regarding Clover Go Service (Mobile Payments)

If you elect to use the Clover Go Service, the following additional terms and conditions of this Section 43 shall apply.

The Clover Go service is provided to you by Processor and not Bank. The Clover Go service, transactions processed, and other matters contemplated under this Section 43 are subject to the terms and conditions of the Agreement, as applicable, except to the extent the terms of this Section 43 directly conflict with another provision of the Agreement, in which case the terms of this Section 43 will control; provided however, Bank is not a party to this Agreement insofar as it applies to the mobile payments service, and you acknowledge that Bank is not liable to you in any way with respect to the mobile payments service. For the purposes of this Section, 43, the words "we," "our" and "us" refer only to the Processor and not the Bank.

**43.1** Your mobile payments service ("Clover Go Service") enables you to accept card-based payments using (a) a smart phone or other supported mobile device that you provide, (b) an approved card reader you obtain from us ("Clover Go Reader"), and (c) an application ("Clover Go App") that you download from the Apple App Store or Google Play. The Clover

Go Service does not support offline point of sale activities and requires Internet connectivity for proper functioning. We may update the Clover Go Service from time to time.

**43.2** Only Apple iOS and Google Android operating systems are compatible with the Clover Go Service, and only certain types of mobile devices using Apple iOS and Google Android are supported for the Clover Go App and Clover Go Service. Please contact us for information on whether a particular mobile device is supported for the Clover Go App and Clover Go Service.

**43.3** Additional terms of use ("Clover Go Terms") apply to the Clover Go Service. From time to time, Clover Go Terms will be presented to you electronically on an "in-application" basis, and you will be required to "click to agree" before being permitted to use the Clover Go App. If we update the Clover Go Terms you will be required to "click to agree" to the updated Clover Go Terms in order to use the Clover Go App again.

**43.4** TO USE THE CLOVER GO SERVICE, YOU MUST ALSO BE USING, AT A MINIMUM, THE TRANSARMOR<sup>SM</sup> DATA PROTECTION SERVICE, which is sometimes referred to as "TransArmor Tokenization and Encryption". You may also choose to use the TransArmor Solution Services, which includes the TransArmor Data Protection Service.

**43.5** If you are already using the single-token version of either the TransArmor Data Protection Service or TransArmor Solution Services, then no additional TransArmor products are needed for the Clover Go Service.

**43.6** If you are using the Payeezy Gateway or if you accept card-not-present payments (for example, Internet payments), you may need a different TransArmor product. Please contact us for information.

**43.7** If you are not already using a TransArmor product, then you must first sign an agreement for an eligible TransArmor product.

**43.8** USE OF CLOVER GO READERS IS AT YOUR OWN RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CLOVER GO READERS ARE PROVIDED "AS IS," AND WE MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND (EXPRESS OR IMPLIED) WITH RESPECT TO CLOVER GO READERS, INCLUDING BUT NOT LIMITED TO: (a) WARRANTIES OF QUALITY, ACCURACY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT, (b) ANY WARRANTY THAT THE CLOVER GO READERS WILL FUNCTION UNINTERRUPTED OR ERROR-FREE, (c) ANY WARRANTY THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED, OR (d) ANY WARRANTY THAT THE CLOVER GO READERS ARE SECURE, FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

### 44. Choice of Law; Venue; Waiver of Jury Trial

**44.1. Choice of Law.** Choice of Law. Our Agreement shall be governed by and construed in accordance with the laws of the State of Washington (without regard to its choice of law provisions).

**44.2. Venue.** We have substantial facilities in the State of Washington and many of the services provided under this Agreement are provided from these facilities. The exclusive venue for any actions or claims arising under or related to this Agreement shall be in the appropriate state or federal court located in King County, Washington.

**44.3. Waiver of Jury Trial.** ALL PARTIES IRREVOCABLY WAIVE ANY AND ALL RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING ANY CLAIM RELATING TO OR ARISING UNDER THIS AGREEMENT.

### 45. Other Terms

**45.1. Force Majeure.** No party shall be liable for any default or delay in the performance of its obligations under this Agreement if and to the extent such default or delay is caused, directly or indirectly, by (i) fire, flood, earthquake, elements of nature or other acts of God; (ii) any terrorist attacks or outbreak or escalation of hostilities, war, riots or civil disorders in any country; (iii) any act or omission of the other party or any government authority; (iv) any labor disputes (whether or not employees' demands are reasonable or within the party's power to satisfy); or (v) the nonperformance by a Person for any similar cause beyond the reasonable control of such party, including without limitation, failures or fluctuations in telecommunications or other equipment. In any such event, the nonperforming party shall be excused from any further performance and observance of the obligations so affected only for as long as such circumstances prevail and such party continues to use commercially reasonable efforts to recommence performance or observance as soon as practicable. Notwithstanding anything to the contrary in this paragraph, your failure to receive payment or funds from a Person shall not excuse the performance of your obligations to us under this Agreement.

**45.2. Compliance with Laws.** In performing its obligations under this Agreement, each party agrees to comply with all laws and regulations applicable to it. You further agree to cooperate and provide information requested by Servicers, as Servicers determine necessary, to facilitate Servicers compliance with any applicable law including without limitation the rules and regulations promulgated by the Office of Foreign Assets Control of the US Department of the Treasury. You further acknowledge and agree that you will not use your merchant account and/or the Services for illegal transactions, for example, those prohibited by the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. Section 5361 et seq, as may be amended from time to time, or those involving any Person listed on the U.S. Department of Treasury, Office of Foreign Assets Control, Specially Designated Nationals and Blocked Persons List (available at [www.treas.gov/ofac](http://www.treas.gov/ofac)) or the U.S. Department of State's Terrorist Exclusion List (available at [www.state.gov](http://www.state.gov)), or for the processing and acceptance of transactions in certain jurisdictions pursuant to 31 CFR Part 500 et seq. and other laws

enforced by the Office of Foreign Assets Control ("OFAC") or in connection with illegal activity of any kind.

**45.3. Notices.** Except as otherwise specifically provided, all notices and other communications required or permitted hereunder (other than those involving normal operational matters relating to the processing of Card transactions) shall be in writing, if to you at your address appearing in the Application or by any electronic means, including but not limited to the e-mail address you have provided on the Application. If to us at our address appearing in Section A.5 of Part IV of this Agreement, with a copy to Attention: General Counsel's Office, 3975 N.W. 120th Avenue, Coral Springs, FL 33065, and Notices shall be deemed to have been given (i) if sent by mail or courier, upon the earlier of five (5) days after mailing or when actually received or, in the case of courier, when delivered, and (ii) if sent by facsimile machine, when the courier confirmation copy is actually received. Notice given in any other manner shall be effective when actually received. Notices sent to the your last known address (including e-mail address), as indicated in our records, shall constitute effective notice to the Merchant under this Agreement. If you change your address (including your e-mail address), you must notify us at least 30 days prior of the effective date of any such change. Failure to provide us with a valid address (including e-mail address) may result in the termination of the Agreement. Notwithstanding the above, all bankruptcy or collection related notices must be sent to the following address Merchant Services Department, 5251 Westheimer Road, Fourth Floor, Houston, Texas 77056, Attn: Bankruptcy and Collection Notifications. All such notices must include the related merchant name and merchant number. Failure to provide Notice to this address or include this pertinent merchant information will be deemed ineffective. All notices must include your merchant name(s) and merchant number(s). Failure to provide notice in the manner described in this Section will be deemed ineffective.

**45.4. Headings.** The headings contained in this Agreement are for convenience of reference only and shall not in any way affect the meaning or construction of any provision of this Agreement.

**45.5. Severability.** The parties intend every provision of this Agreement to be severable. If any part of this Agreement is not enforceable, the remaining provisions shall remain valid and enforceable.

**45.6. Entire Agreement; Waiver.** This Agreement constitutes the entire Agreement between the parties with respect to the subject matter thereof, and supersedes any previous agreements and understandings. A party's waiver of a breach of any term or condition of this Agreement shall not be deemed a waiver of any subsequent breach of the same or another term or condition.

**45.7. Amendment.** We may modify any provision of this Agreement by providing written notice to you. You may choose not to accept the requirements of any such change by terminating the Agreement within twenty (20) days of receiving notice. If you choose to do so, notify us that you are terminating for this reason so that we may waive any early termination fee that might otherwise apply. For purposes of this section, an electronic or "click-wrap" notice intended to modify or amend this Agreement and which you check "I Accept" or "I Agree" or otherwise accept through an electronic process, shall constitute in writing as required herein. This Section 45.7 does not apply to fee changes, which are governed by Sections 25.4 and 25.5.

**45.8. Third Party Beneficiaries.** Our respective Affiliates and any Persons we use in providing the Services are third party beneficiaries of this Agreement and each of them may enforce its provisions as it was a party hereto. Except as expressly provided in this Agreement, nothing in this Agreement is intended to confer upon any Person any rights or remedies, and the parties do not intend for any Persons to be third-party beneficiaries of this Agreement.

**45.9. Card Organization Rules.** The parties acknowledge that the Visa, MasterCard, Discover Network and PayPal Card Organization Rules give Visa, MasterCard, Discover Network and PayPal certain rights to require termination or modification of this Agreement with respect to transactions involving Visa, MasterCard, Discover Network and PayPal Cards and the Visa, MasterCard, Discover Network and PayPal Card systems and to investigate you. The parties also acknowledge that issuers of other Cards, for which we perform services on your behalf, may have similar rights under their applicable Card Organization Rules with respect to this Agreement's applicability to transactions involving such other Cards.

**45.10. Publicity.** Client may not use the logo, name, trademark, or service mark of Processor and/or Bank in any manner, including without limitation, in any advertisements, displays, or press releases, without the prior written consent of Processor and Bank.

## 45.11 E-SIGN CONSENT AGREEMENT

### I. Consent

By signing the Confirmation Page, you consent and agree that:

- a. Processor can provide disclosures required by law and other information about your legal rights and duties to you electronically.
- b. Where required or requested, your electronic signature (via "click-through" or other method) on agreements and documents relating to the Clover Service has the same effect as if you signed them in ink.
- c. Processor can send all communications, billing statements, amendments to the Clover Service, notices, and other disclosures or information regarding the Clover Service or your use of the Clover Service or the Services as defined in the Agreement (collectively defined as "Disclosures") to you electronically (1) via e-mail, (2) by access to a web site

that we designate in an e-mail notice we send to you at the time the information is available, or (3) to the extent permissible by law, by access to a website that we will generally designate in advance for such purpose.

- d. If you want a paper copy, you can print a copy of the Disclosure or download the information for your records.
- e. This consent applies to all future Disclosures sent to you in connection with the Clover Service, the Agreement, or your use of the Clover Service or the Services as defined in the Agreement.

### 2. Legal Effect

By consenting, you agree that electronic Disclosures have the same meaning and effect as if Processor provided paper Disclosures to you. When Processor sends you an email or other electronic notification alerting you that the Disclosure is available electronically and makes it available online, that shall have the same meaning and effect as if Processor provided a paper Disclosure to you, whether or not you choose to view or print or download the Disclosure.



As used in this Agreement, the following terms mean as follows:

**Acquirer:** Bank in the case of MasterCard, Visa and certain debit transactions or Processor in the case of Discover Network and PayPal (in-store only) transactions that acquire Card sale transactions from merchants such as yourself.

**Address Verification Service ("AVS"):** A service provided through which the merchant verifies the Cardholder's address, in whole or in part. Primarily used by Mail/Telephone/Internet order merchants, Address verification is intended to deter fraudulent transactions, however, an AVS Match does not guarantee that a transaction is valid. An AVS request should generally be submitted with an authorization request. The AVS response, if available, however will not impact whether any associated authorization request is approved or denied. You may be charged an AVS fee for any AVS request you submit even if we are not able to provide a response to the request.

**Affiliate:** "Affiliate" of a Person means another Person that, directly or indirectly, (i) owns or controls such Person or (ii) is under common ownership or control with such Person.

**Agreement:** The Agreements among Client, Processor, and Bank, contained in the Application, the Program Guide and the Schedules thereto and documents incorporated therein, each as amended from time to time, which collectively constitute the Agreement among the parties.

**Application:** See Merchant Processing Application

**Authorization:** Approval by, or on behalf of, the Issuer to validate a transaction. An Authorization indicates only the availability of the Cardholder's Credit Limit or funds at the time the Authorization is requested. An Authorization Fee (see Fee Schedule) can be charged for each Authorization, whether approved or declined.

**Authorization Approval Code:** A number issued to a participating merchant by the Authorization Center which confirms the Authorization for a sale or service.

**Authorization and Capture:** Refers to the communication of instructions from your POS device or other systems to our computer systems, whether the communications are for authorization requests or any other capture of information. If your Service fee Schedule reflects and authorization and capture fee it may be applied to each communication you transmit to us.

**Authorization Center:** A department that electronically communicates a merchant's request for Authorization on Credit Card transactions to the Cardholder's bank and transmits such Authorization to the merchant via electronic equipment or by voice Authorization.

**Bank:** The bank identified on the Application signed by you.

**Bankruptcy Code:** Title 11 of the United States Code, as amended from time to time.

**Batch:** A single Submission to us of a group of transactions (sales and Credits) for settlement. A Batch usually represents a day's worth of transactions.

**Business Day:** Monday through Friday, excluding Bank holidays.

**Card:** See either Credit Card or Debit Card.

**Cardholder:** Means the Person whose name is embossed on a Card and any authorized user of such Card, including the Person that has entered into an agreement establishing a Card account with an Issuer.

**Card Not Present Sale/Transaction:** A transaction that occurs when the Card is not present at the point-of-sale, including Internet, mail-order and telephone-order Card sales.

**Card Organization:** Any entity formed to administer and promote Cards, including without limitation MasterCard Worldwide ("MasterCard"), Visa U.S.A., Inc. ("Visa"), DFS Services LLC ("Discover Network"), PayPal Inc. ("PayPal"), American Express Company, Inc. ("American Express") and any applicable debit networks.

**Card Organization Rules:** The rules, regulations, releases, interpretations and other requirements (whether contractual or otherwise) imposed or adopted by any Card Organization and related authorities, including without limitation, those of the PCI Security Standards Council, LLC and the National Automated Clearing House Association (including, with respect to EBTs, the Quest Operating Rules).

**Card Verification Codes:** A three-digit value printed in the signature panel of most Cards and a four-digit value printed on the front of an American Express Card. Visa's Card Verification Code is known as CVV2; MasterCard's Card Verification Code is known as CVC2; the Card Verification Codes for Discover Network, PayPal and American Express are known as a Card Identification Numbers (CID). Card Verification Codes are used to deter fraudulent use of an account number in a non-face-to-face environment, (e.g., mail orders, telephone orders and Internet orders).

**Card Verification Value (CVV)/Card Validation Code (CVC)/Card Identification Data (CID):** A unique value encoded on the Magnetic Stripe of a Card used to validate Card information during the Authorization process.

**Cardholder Verification Method (CVM):** A method used to confirm the identity of a Cardholder and to signify Cardholder acceptance of a transaction, such as signature, Offline PIN, and Online PIN.

**Cash Benefits:** An EBT account maintained by an Issuer that represents pre-funded or day-of-draw benefits, or both, administered by one or more government entities, and for

which the Issuer has agreed to provide access under the EBT program. Multiple benefits may be combined in a single cash benefit account.

**Cash Over Transaction:** Dispensing of cash by a merchant in connection with a Card sale, other than a PIN Debit Card transaction, for the purchase of goods or services.

**Charge or Charges:** The total price, including all applicable taxes and gratuities, for the purchase of goods or services at a merchant for which a Cardholder has signed a Sales Draft or otherwise indicated intent to pay with a Card.

**Chargeback:** A Card transaction (or disputed portion) that is returned to us by the Issuer. Client is responsible for payment to us for all Chargebacks.

**Chip:** An integrated microchip embedded on a Card containing cardholder and account information.

**Chip Card:** A Card with an embedded EMV-compliant chip containing memory and interactive capabilities used to identify and store additional data about a Cardholder, an Account, or both.

**Claim:** Means any claim (including initial claims, counterclaims, cross-claims, and third party claims), dispute, or controversy between you and us arising from or relating to the Agreement or prior Card acceptance agreements, or the relationship resulting therefrom, whether based in contract, tort (including negligence, strict liability, fraud, or otherwise), statutes, regulations, or any other theory, including any question relating to the existence, validity, performance, construction, interpretation, enforcement, or termination of the Agreement or prior Card acceptance agreements or the relationship resulting therefrom.

**Contactless Payment:** Payment performed in a Card-Present Environment with a Contactless card or Payment Device (e.g., Mobile phone) at the Point-of-Transaction.

**Client:** The party identified as "Client" on the Application. The words "Subscriber," "you" and "your" refer to Client. Also, sometimes referred to as "Merchant."

**Credit:** A refund or price adjustment given for a previous purchase transaction.

**Credit Card:** A device bearing a valid Organization Mark of Visa, MasterCard, Discover Network, PayPal or American Express and authorizing the Cardholder to buy goods or services on credit and, to the extent the Schedules so provide, a valid device authorizing the Cardholder to buy goods or services on credit and issued by any other Card Organization specified on such Schedules.

**Credit Draft:** A document evidencing the return of merchandise by a Cardholder to a Client, or other refund or price adjustment made by the Client to the Cardholder, whether electronic, paper or some other form, all of which must conform to Card Organization Rules and applicable law.

**Credit Limit:** The credit line set by the Issuer for the Cardholder's Credit Card account.

**Customer Activated Terminal (CAT):** A magnetic stripe terminal or chip-reading device (such as an automatic dispensing machine, Limited Amount Terminal, or Self-Service Terminal) that is not an ATM.

**Data Usage Charge:** Charged to you for our processing of Sales Data sent to us.

**Debit Card:** See either PIN Debit Card or Non-PIN Debit Card.

**Dial-Up Terminal:** An Authorization device which, like a telephone, dials an Authorization Center for validation of transactions.

**Discount Rate:** A percentage rate and/or amount charged to a merchant for processing its qualifying daily Credit Card and Non-PIN Debit Card transactions, as set forth in the Application. Transactions that fail to meet applicable interchange requirements will be charged additional amounts as set forth in Section 19.1.

**Discover International Service Fee:** A fee assessed by Discover on the amount of Card Sales (excluding Cash Over) conducted at a Client location in the United States where the domicile of the Issuer of the Card used in the Card Sale is a country other than the United States. This fee is not applicable to Card Sales with JCB and China Union Pay cards.

**Electronic Benefit Transfer (EBT):** An Electronic Benefits Transfer system used to deliver certain government delivered benefits, including without limitation Cash Benefits and FNS, SNAP and WIC Benefits, to EBT customers.

**Electronic Draft Capture (EDC):** A process which allows a merchant's Dial-Up Terminal to receive Authorization and capture transactions, and electronically transmit them to the Processor. This eliminates the need to submit paper for processing.

**EMV:** Developed by Europay, MasterCard, and Visa. It is the global standard for chip based payments.

**Entity:** Means a corporation, partnership, sole proprietorship, trust, association, or any other legally recognized entity or organization.

**Factoring:** The submission of authorization requests and/or Sales Drafts by a merchant for Card sales or cash advances transacted by another business. Factoring is prohibited.

**Fixed Acquirer Network Fee (FANF):** Fee that applies to the acceptance of all Visa branded products and is based on both the size and the number of merchant locations. The fee will be assessed per merchant Taxpayer ID, based on the number of merchant locations, Merchant Category Code (MCC), and monthly Total Gross merchant Sales Volume associated with each Taxpayer ID.

**Fraud Full Recourse:** One of American Express's Chargeback programs

**General Terms:** Section of the Program Guide, including any amendments or modifications.

**Gross:** When referred to in connection with transaction amounts or fees, refers to the total amount of Card sales, without set-off for any refunds or Credits.

**Imprinter:** A manual or electric machine used to physically imprint the merchant's name and ID number as well as the Cardholder's name and Card number on Sales Drafts.

**Issuer:** The financial institution or Card Organization (or other Entity authorized by a Card Organization) which has issued a Card to a Person.

**Limited Amount Terminal:** A Customer Activated Terminal that has data capture only capability, and accepts payment for items such as parking garage fees, road tolls, motion picture theater entrance, or magnetic-stripe telephones.

**Magnetic Stripe:** A stripe of magnetic information affixed to the back of a plastic Credit or Debit Card. The Magnetic Stripe contains essential Cardholder and account information.

**Marks:** Names, logos, emblems, brands, service marks, trademarks, trade names, tag lines or other proprietary designations.

**MasterCard Account Status Inquiry Service Fee:** Zero dollar Account Status Inquiry Service requests (including AVS, CVC2 or both).

**MasterCard CVC2 Fee:** A fee assessed for transactions acquired in the U.S. Region with the CVC2 (Three digit code on the back of the MasterCard issued card) included in the transaction for authorization and where the CVC2 response value equals 'M' (Match) or 'N' (Invalid/did not match). The fee will not be applied to Account Status Inquiry (ASI) requests.

**MasterCard Digital Enablement Fee:** A fee assessed by MasterCard on select Card Not Present transactions.

**MasterCard Processing Integrity Fee:** The MasterCard Processing Integrity Fee is assessed in the event MasterCard cannot match an approved authorization to a settled transaction (within 120 days from the date the authorization was granted) or a reversal request (within a specific time frame). The Processing Integrity Fee can be avoided by settling transactions only with an approved authorization. If an authorization approval is no longer needed, it must be electronically reversed within 24 hours for a card-present transaction or within 72 hours for card not present transaction.

**MC Cross Border Fee (USD):** Assessed on any MasterCard<sup>1</sup> settled sale processed in USD Currency in which the country code of the merchant differs from the country code of the Cardholder (i.e., U.S. Merchant, Non U.S. Issued Card).

**Media:** The documentation of monetary transactions (i.e., Sales Drafts, Credit Drafts, computer printouts, etc.)

**Merchant Identification Card:** A plastic embossed card supplied to each merchant to be used for imprinting information to be submitted with each Batch of paper Sales Drafts. Embossed data includes Merchant Identification Number, name and sometimes merchant ID code and terminal number.

**Merchant Identification Number:** A number that numerically identifies each merchant location, outlet, or line of business to the Processor for accounting and billing purposes.

**Merchant Processing Application:** The Merchant Processing Application and Agreement executed by Client, which is one of the documents comprising the Agreement.

**Merchant Provider:** Any Person engaged by you to provide services to you involving or relating to (i) access to Cardholder data, transaction data or information related to either Cardholder data or transaction data or (ii) PIN encryption, including without limitation, Encryption Service Organizations (ESOs).

**Non-Bank Services:** Products and/or Services for which Bank is not responsible or a party to including American Express, PIN Debit Card, and Electronic Benefits Transfer Transactions, and Transactions Involving Cards from other Non-Bank Card Organizations, such as Voyager Fleet Systems, Inc., Wright Express Corporation and Wright Express Financial Services Corporation, Discover, PayPal, TransArmor, Wireless, Payeezy Gateway Services, Global ePricing Services and other items as may be indicated in this Program Guide.

**Non-PIN Debit Card:** A device with a Visa, MasterCard or Discover Network Mark that is tied to a Cardholder's bank account or a prepaid account and which is processed without the use of a PIN.

**Non-Qualified Interchange Fee:** The difference between the interchange fee associated with the Anticipated Interchange Level and the interchange fee associated with the more costly interchange level at which the transaction actually processed.

**Non-Qualified Surcharge:** A surcharge applied to any transaction that fails to qualify for the Anticipated Interchange Level and is therefore downgraded to a more costly interchange level. The Non-Qualified Surcharge (the amount of which is set forth on the Service Fee Schedule) is in addition to the Non-Qualified Interchange Fee, which is also your responsibility (see above, Section 19.1)

**PAN Truncation:** A procedure by which a Cardholder's copy of a Sales Draft or Credit Draft, or as required by applicable law, the Sales Draft or Credit Draft you retain, will only reflect the last four digits of the Card account number.

**Person:** A third party individual or Entity, other than the Client, Processor or Bank.

**PIN:** A Personal Identification Number entered by the Cardholder to submit a PIN Debit Card transaction.

<sup>1</sup>MasterCard Credit or Debit Card, Cirrus Card, or Maestro Card.

**PIN Debit Card:** A device bearing the Marks of ATM networks (such as NYCE or Star) used at a merchant location by means of a Cardholder-entered PIN in the merchant PIN Pad.

**PIN Debit Sponsor Bank:** The PIN Debit Sponsor Bank(s) identified on the Application signed by you that is/are the sponsoring or acquiring bank(s) for certain PIN Debit networks.

**Point of Sale (POS) Terminal:** A device placed in a merchant location which is connected to the Processor's system via telephone lines, Ethernet or wireless, and is designed to authorize, record and transmit settlement data by electronic means for all sales transactions with Processor.

**Processor:** The entity identified on the Application (other than the Bank) which provides certain services under the Agreement.

**Program Guide (also known as the Merchant Services Program Terms and Conditions):** The booklet which contains Your Payments Acceptance Guide, the General Terms, Third Party Agreements and the Confirmation Page, which together with the Application and the Schedules thereto and documents incorporated therein, constitute your Agreement with Processor and Bank.

**Recurring Payment Indicator:** A value used to identify transactions for which a Cardholder provides permission to a merchant to bill the Cardholder's Card account at either a predetermined interval or as agreed by the Cardholder for recurring goods or services.

**Referral:** A message received from an Issuer when an attempt for Authorization requires a call to the Voice Authorization Center or Voice Response Unit (VRU).

**Reserve Account:** An account established and funded at our request or on your behalf, pursuant to Section 25 of the Agreement.

**Resubmission:** A transaction that the Client originally processed as a Store and Forward transaction but received a soft denial from the respective debit network or Card Organization. The resubmission transaction allows the merchant to attempt to obtain an approval for the soft denial, in which case Client assumes the risk that the transaction fails.

**Retrieval Request/Transaction Documentation Request:** A request for documentation related to a Card transaction such as a copy of a Sales Draft or other transaction source documents.

**Sales/Credit Summary:** The identifying form used by a paper Submission merchant to indicate a Batch of Sales Drafts and Credit Drafts (usually one day's work). Not a Batch header, which is used by electronic merchants.

**Sales Draft:** Evidence of a purchase, rental or lease of goods or services by a Cardholder from, and other payments to, Client using a Card, including preauthorized orders and recurring transactions (unless the context requires otherwise); regardless of whether the form of such evidence is in paper or electronic form or otherwise, all of which must conform to Card Organization Rules and applicable law.

**Schedules:** The attachments, addenda and other documents, including revisions thereto, which may be incorporated into and made part of this Agreement concurrently with or after the date of this Agreement.

**Self-Service Terminal:** A Customer Activated Terminal that accepts payment of goods or services such as prepaid cards or video rental, has electronic capability, and does not accept PINs.

**Services:** Bank and Processor collectively. The words "we," "us" and "our" refer to Servicers, unless otherwise indicated in this Program Guide.

**Services:** The activities undertaken by Processor and/or Bank, as applicable, to authorize, process and settle all United States Dollar denominated Visa, MasterCard, Discover Network, PayPal and American Express transactions undertaken by Cardholders at Client's location(s) in the United States, and all other activities necessary for Processor to perform the functions required by this Agreement for all other Cards covered by this Agreement.

**Settlement Account:** An account or account(s) at a financial institution designated by Client as the account to be debited and credited by Processor or Bank for Card transactions, fees, Chargebacks and other amounts due under the Agreement or in connection with the Agreement.

**Split Dial:** A process which allows the Authorization terminal to dial directly to different Card processors (e.g., American Express) for Authorization. In this instance, the merchant cannot be both EDC and Split Dial. Split Dial is also utilized for Check Guarantee companies.

**Split Dial/Capture:** Process which allows the Authorization terminal to dial directly to different Card processors (e.g., American Express) for Authorization and Electronic Draft Capture.

**Store and Forward:** A transaction that has been authorized by a merchant when the merchant cannot obtain an Authorization while the customer is present, typically due to a communications failure. The merchant will store the transaction electronically in their host system and retransmit the transaction when communications have been restored.

**Submission:** The process of sending Batch deposits to Processor for processing. This may be done electronically or by mail.

**Summary Adjustment:** An adjustment to your Submission and/or Settlement Accounts in order to correct errors. (See Sections 10.3 and 10.4).

**Telecommunication Card Sale:** Individual local or long-distance telephone calls, for which the telephone service provider is paid directly by use of a Card. These do not include, however, calls paid for with pre-paid telephone service cards. Telecommunication Card Sales are considered Card Not Present Sales.

**Transaction Fees:** Service costs charged to a merchant on a per transaction basis.

**Transaction Integrity Fee:** Fee assessed on Visa Debit Card and prepaid Card purchase transactions that either fail or do not request CPS qualification.

**Us, We and Our:** See Servicers.

**Visa International Service Fee:** Assessed on any Visa settled sale where the merchant is located in the U.S. and the Card is issued outside of the U.S. (i.e., U.S. Merchant, Non U.S. Issued Card).

**Visa Misuse of Auth:** Charged to Visa authorized transactions that are not followed by a matching Visa settled transaction (or in the case of a canceled transaction, not properly reversed). The fee can be avoided by settling your transactions within 10 days for Non Travel and Entertainment (T&E) Merchants Segments and 20 days for T&E merchants. If an authorization is not needed, the authorization must be electronically reversed within 24 hours for face to face authorizations and reversed within 72 hours for Card Absent authorizations.

**Visa Zero \$ Verification:** Charged for Visa Card verification requests (without an actual dollar authorization). This fee can be avoided by obtaining an authorization request for the amount of the sale. If the authorization is not needed, the authorization request must be electronically reversed within 24 hours for face to face authorizations and reversed within 72 hours for Card Absent authorizations (to avoid the Visa Misuse of Authorization System fee).

**Visa Zero Floor Limit:** Charged when a Visa sale is settled without the required authorization (transaction ID is used to match the authorization to settled sale). All transactions above zero dollars require an authorization approval. This fee can be avoided by only settling transactions that have been approved. If an authorization is declined, the merchant must request another form of payment.

**You, Your:** See Client.

**Your Payments Acceptance Guide:** a quick reference to the guidelines for processing transactions. You'll also find recommendations and tips to help you prevent fraud, reduce chargebacks, and properly handle payments, refunds, exchanges, and most other situations you'll encounter in your day-to-day-business.

**A.1. Electronic Funding Authorization**

All payments to Client shall be through the Automated Clearing House ("ACH") and shall normally be electronically transmitted directly to the Settlement Account you have designated or any successor account designated to receive provisional funding of Client's Card sales pursuant to the Agreement. Client agrees that any Settlement Account designated pursuant to the preceding sentence will be an account primarily used for business purposes. Neither *Wells Fargo Bank, N.A.* nor Gravity Payments can guarantee the time frame in which payment may be credited by Client's financial institution where the Settlement Account is maintained.

Client hereby authorizes *Wells Fargo Bank, N.A.* and its authorized representative, including Gravity Payments, to access information from the Settlement Account and to initiate credit and/or debit entries by bankwire or ACH transfer and to authorize your financial institution to block or to initiate, if necessary, reversing entries and adjustments for any original entries made to the Settlement Account and to authorize your financial institution to provide such access and to credit and/or debit or to block the same to such account. This authorization is without respect to the source of any funds in the Settlement Account, is irrevocable and coupled with an interest. This authority extends to any equipment rental or purchase agreements which may exist with Client as well as to any fees, fines and assessments and Chargeback amounts of whatever kind or nature due to Gravity Payments or *Wells Fargo Bank, N.A.* under terms of this Agreement whether arising during or after termination of the Agreement. This authority is to remain in full force and effect at all times unless and until Gravity Payments and *Wells Fargo Bank, N.A.* have consented to its termination at such time and in such a manner as to afford them a reasonable opportunity to act on it. In addition, Client shall be charged twenty-five dollars (\$25.00) for each ACH which cannot be processed, and all subsequent funding may be suspended until Client either (i) notifies Gravity Payments that ACHs can be processed or (ii) a new electronic funding agreement is signed by Client. Client's Settlement Account must be able to process or accept electronic transfers via ACH.

**A.2. Funding Acknowledgement**

**Automated Clearing House (ACH).** Your funds for MasterCard, Visa, Discover Network, PayPal and American Express transactions will ordinarily be processed and transferred to your financial institution within two (2) Business Days from the time a batch is received by Processor if your financial institution is the Bank. If your financial institution is not the Bank, your MasterCard, Visa, Discover Network, PayPal and American Express transactions will ordinarily be processed via the Federal Reserve within two (2) Business Days from the time a batch is received by Processor. The Federal Reserve will transfer such amounts to your financial institution.

**A.3. Additional Fees and Early Termination**

If Client's MasterCard, Visa, Discover Network, PayPal and American Express transaction(s) fail to qualify for the discount level contemplated in the rates set forth in the Application, Client will be billed the fee indicated in the Mid-Qualified Discount field or Non-Qualified Discount field. If you are utilizing the Enhanced Billback Discount option, the Client will be charged the Enhanced Billback Rate on the volume of said transaction that failed to qualify, in addition to the difference between the MasterCard/ Visa/Discover Network/ PayPal and American Express Qualified Rate agreed to on the Service Fee Schedule and the actual interchange rate assessed to the downgraded transaction.

- a. Any increases or decreases in the interchange and/or assessment portion of the fees;
- b. The appropriate interchange level as is consistent with the qualifying criteria of each transaction submitted by Client;
- c. Increases in any applicable sales or telecommunications charges or taxes levied by any state, federal or local authority related to the delivery of the services provided by Gravity Payments when such costs are included in the Service or other fixed fees.

The discount fees shown on the Service Fee Schedule shall be calculated based on the gross sales volume of all Visa, MasterCard/ Discover/PayPal and American Express volume.

A Monthly Minimum Processing Fee will be assessed immediately after the date Client's Application is approved. (Refer to Service Fee Schedule, if applicable.)

In addition to the PIN Debit Card transaction fees set forth on the Application, Client shall be responsible for the amount of any fees imposed upon a transaction by the applicable debit network.

The parties further agree and acknowledge that, in addition to any remedies contained herein or otherwise available under applicable law and, if (a) Client breaches this Agreement by improperly terminating it prior to the expiration of the initial term of the Agreement, or (b) this Agreement is terminated prior to the expiration of the initial term of the Agreement due to an Event of Default, then Servicers will suffer a substantial injury that is difficult or impossible to accurately estimate. Accordingly, the parties have agreed that the amount described below is a reasonable pre-estimate of Servicers' probable loss.

In the event that Client terminates this Agreement within three (3) years from the date of approval by Gravity Payments and *Wells Fargo Bank, N.A.* or this Agreement is terminated by Servicers within 3 years from the date of approval due to an Event of Default, Client will be charged a fee of \$495.00 for such early termination.

Client's obligation with respect to the Monthly Minimum Processing Fee will end simultaneously with Gravity Payments' receipt of Termination Fee.

**A.4. 6050W of the Internal Revenue Code**

Pursuant to Section 6050W of the Internal Revenue Code, merchant acquiring entities and third party settlement organizations are required to file an information return for each calendar year reporting all payment card transactions and third party network transactions with payees occurring in that calendar year. Accordingly, you will receive a Form 1099-K reporting your gross transaction amounts for each calendar year. Your gross transaction amount refers to the gross dollar amount of the card transactions processed through your merchant account with us. In addition, amounts reportable under Section 6050W are subject to backup withholding requirements. Payors will be required to perform backup withholding by deducting and withholding income tax from reportable transactions if (a) the payee fails to provide the payee's taxpayer identification number (TIN) to the payor, or (b) if the IRS notifies the payor that the TIN (when matched with the name) provided by the payee is incorrect. Accordingly, to avoid backup withholding, it is very important that you provide us with the correct name and TIN that you use when filing your tax return that includes the transactions for your business.

**A.5. Addresses For Notices**

**PROCESSOR:**  
**Gravity Payments:**  
 1455 NW Leary Way  
 Suite 200  
 Seattle, WA 98103  
 Attn: Merchant Services

**Important Phone Numbers:**  
*(see also Sections 3.3 and 3.4)*  
 Customer Service  
 1-866-701-4700

**BANK:**  
**Wells Fargo Bank N.A.:**  
 1200 Montego  
 Walnut Creek, CA 94598  
 Attn: Merchant Services  
 (925) 746-4143

## Gravity Payment, Inc. Waiver of Rights

Gravity Payments, Inc. ("Gravity"), in order to induce the City of Marysville (the "City") to enter into a certain Agreement (as defined below), makes these assurances and waiver of rights with regards to the manner in which it will exercise its contractual rights under the Agreement and acknowledges that but for the assurances and waiver of rights, the City would not otherwise enter the Agreement. Now, therefore, Gravity and the City agree as follows:

1. Background Recitals

a. Gravity collaborated with Billing Document Specialists, a division of Valli Information Systems ("BDS"), to submit a proposal to the City's Request for Proposals related to online bill presentation and payment.

b. Gravity and BDS proposed to have Gravity provide payment processing services for the City.

c. Gravity is required by credit card organizations to include certain contractual provisions and requires that the City execute its standard Agreement (consisting of a Merchant Application, the Program Terms and Conditions (GP1904(ia)), and the schedules thereto, collectively, the "Agreement").

d. Gravity's contractual requirements were disclosed to the City late in the process and sufficient time does not exist to amend Gravity's standard Agreement as Gravity has represented that this would be a lengthy process. Instead, Gravity has represented that Gravity will give this Waiver of Rights equal effect as though the Agreement terms were written to effectuate the purpose of the Waiver of Rights.

e. Gravity provides these assurances as to the manner in which it will exercise its contractual rights under the Agreement knowing that the assurances are relied upon by the City in entering into the Agreement and that the City would not otherwise enter into the Agreement.

2. Subject to approval by the City Council, the City will execute the Agreement, in reliance upon the representations herein, within a reasonable time.

3. Section 24 of the Program Terms and Conditions, a part of the Agreement, provides:

During the term of this Agreement, you shall use us as your exclusive provider of all Services

Gravity agrees and acknowledges that it will not assert its rights under Section 24 of the Agreement as regards other City departments. Gravity will treat this provision only as to payment processing for the Utility Billing Department. The City may utilize other payment processors for other departments, including but not limited to the City's Municipal Court or the City's Parks, Culture, and Recreation Department.

4. Section 25.5 of the Program Terms and Conditions, a part of the Agreement, provides:

Subject to Section 30.3, we may also increase our fees or add new fees for Services for any reason at any time, by notifying you thirty (30) days' prior to the effective date of any such change or addition.

Gravity agrees and acknowledges that it will not assert its rights under Section 25.5 of the Agreement as regards its fees. Gravity will not increase its fees or add new fees for its services within the first five years of the Agreement. Gravity warrants that the only increases in fees or new fees for the first five years will be increases in fees or new fees imposed by "Card Organizations" as that term is used in the Agreement.

5. Section 28.3.2 of the Program Terms and Conditions, a part of the Agreement, provides:

The obligations of confidentiality and restrictions on use in this Section shall not apply to any confidential information that: . . . (iv) is required to be disclosed by law, regulation or court order after giving us as much advance notice as practical of the possibility of disclosure.

Gravity agrees and acknowledges that the City is subject to the Washington State Public Records Act, Chapter 42.56, RCW and that the City's obligations thereunder require the City, by law, to disclose public records. The City will endeavor to provide as much advance notice as practical, but shall not be liable for its failure to provide such notice.

6. Gravity agrees and acknowledges that Sections 34, 36, 37, 38, 39, 40, 41, 42, and 43 of the Program Terms and Conditions, a part of the Agreement, relate to optional services which are not being utilized by the City and have no force and effect. Should the City provide written notice of its desire to utilize these services in the future, the corresponding provisions will apply.

7. Gravity agrees and acknowledges that the City, as a government entity, is not required to provide a personal guaranty as requested in the Merchant Application.

8. Any change to the terms of this Waiver of Rights must be in writing and executed by both Gravity and the City.

DATED this 15<sup>th</sup> day of March, 2017.

<p><b>CITY OF MARYSVILLE</b></p> <p>By _____ Jon Nehring, Mayor</p> <p>Attest/Authenticated:</p> <p>_____ April O'Brien, Deputy City Clerk</p> <p>Approved as to form:</p> <p>_____ Jon Walker, City Attorney</p>	<p><b>GRAVITY PAYMENTS, INC.</b></p> <p>By <u>Alex Price</u> [Name] Alex Price Its: [Title] Finance Manager</p>
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# *Index #9*



**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: March 6, 2017**

<b>AGENDA ITEM:</b> Substitute Professional Services Agreement with Billing Document Specialists (Subsidiary of Valli Information Systems) (“BDS”).	
<b>PREPARED BY:</b> John Nield, Financial Operations Manager	<b>DIRECTOR APPROVAL:</b>
<b>DEPARTMENT:</b> Utility Billing	
<b>ATTACHMENTS:</b>	
<b>BUDGET CODE:</b> 00143523.541000 100%	<b>AMOUNT:</b> 204,000 per year estimated. 1,020,000 total.

**SUMMARY:**

Staff is requesting authorization to enter into a **SUBSTITUTE** Sixty Month Professional Services Agreement with Valli Information Systems’ subsidiary Billing Document Specialists (BDS) to provide Online Bill Services and Customer Payment Services for the City of Marysville Utility Customers.

This Substitute PSA clarifies the relationship between Billing Document Specialists (Subsidiary of Valli Information Systems) (“BDS”), Gravity Payments and the City of Marysville. The Substitute PSA includes a modified scope of work that clarifies the scope of services to be provided by BDS and clarifies the division of labor between Gravity Payments and BDS in providing the City a fully functioning online bill presentation and payment portal. The Substitute PSA has also been updated to clarify that it replaces the previous agreement between the City and BDS (which was approved on December 12, 2016).

The term date has been changed by one month to April 1, 2017 through March 31, 2022. No other terms were altered in regards to fees, terms or customer service or any other portion of the PSA previously approved.

**RECOMMENDED ACTION:** Staff recommends that Council Authorize the Mayor to sign the **SUBSTITUTE** Professional Services Agreement between the City of Marysville and Valli Information Systems subsidiary Billing Documents Specialist.

**SUBSTITUTED PROFESSIONAL SERVICES AGREEMENT BETWEEN  
CITY OF MARYSVILLE AND BILLING DOCUMENT SPECIALISTS FOR  
ONLINE BILL PRESENTMENT AND FOR ONLINE AND PHONE  
PAYMENT PROVIDER**

**THIS SUBSTITUTED AGREEMENT** (“Agreement”) is made and entered into this \_\_\_\_ day of March, 2017, by and between the City of Marysville, a Washington State municipal corporation (“City”), and Billing Document Specialists, a division of Valli Information Systems, an Idaho Privately Held Corporation, organized under the laws of the state of Idaho, located and doing business at 915 Main Street, Suite 1000 Caldwell, ID 83605 (“Consultant”).

In consideration of the terms, conditions, covenants, and performances contained herein, the parties hereto agree as follows:

- 1. SCOPE OF SERVICES.** The Consultant shall provide the work and services described in the attached Exhibit A, incorporated herein by this reference (the “Services”). All services and materials necessary to accomplish the tasks outlined in the Scope of Services shall be provided by the Consultant unless noted otherwise in the Scope of Services or this Agreement. All such services shall be provided in accordance with the standards of the Consultant’s profession.
- 2. TERM.** The term of this Agreement shall commence on April 1, 2017 and shall terminate at midnight on March 31, 2022. The parties may extend the term of this Agreement by executing a written supplemental amendment.
- 3. COMPENSATION.** The Consultant shall be paid by the City for Services rendered under this Agreement as described in Exhibit A and as provided in this section. In no event shall the compensation paid to Consultant under this Agreement exceed One Million Twenty Thousand Dollars (**\$1,020,000.00**) within the term of the Agreement, including extensions, without the written agreement of the Consultant and the City. Such payment shall be full compensation for the Services and for all labor, materials, supplies, equipment, incidentals, and any other expenses necessary for completion.

The Consultant shall submit a monthly invoice to the City for Services performed in the previous calendar month in a format acceptable to the City. The Consultant shall maintain time and expense records and provide them to the City upon request.

The City will pay timely submitted and approved invoices received before the 20th of each month within thirty (30) days of receipt.

**4. CONSULTANT’S OBLIGATIONS.**

**4.1 MINOR CHANGES IN SCOPE.** The Consultant agrees to accept minor changes, amendments, or revisions to the scope of the Services, as may be required by the City, when such

changes, amendments, or revisions will not have any impact on the cost of the Services or the proposed delivery schedule.

**4.2 ADDITIONAL WORK.** The City may desire to have the Consultant perform additional work or services which are not identified in the scope of the Services. If the parties agree to the performance of additional work or services, the parties will execute a written supplemental amendment detailing the additional work or services and compensation therefore. In no event will the Consultant be compensated for preparing proposals for additional work or services. In no event shall the Consultant begin work contemplated under a supplemental amendment until the supplemental amendment is fully executed by the parties.

**4.3 WORK PRODUCT AND DOCUMENTS.** The work product and all documents produced under this Agreement shall be furnished by the Consultant to the City, and upon completion of the Services shall become the property of the City, except that the Consultant may retain one copy of the work product and documents for its records. The Consultant will be responsible for the accuracy of the Services, the work product, and all documents produced under this Agreement, even though the Services have been accepted by the City.

In the event that the Consultant defaults on this Agreement or in the event that this Agreement is terminated prior to the completion of the Services or the time for completion, all work product and all documents and other materials produced under this Agreement, along with a summary of work as of the date of default or termination, shall become the property of the City. The summary of Services provided shall be prepared at no additional cost to the City. Upon request, the Consultant shall tender the work product, all documents, and the summary to the City within five (5) business days. Tender of said work product shall be a prerequisite to final payment under this Agreement.

The Consultant will not be held liable for reuse of work product or documents produced under this Agreement or modification of the work product or documents for any purpose other than those identified in this Agreement without the written authorization of the Consultant.

**4.4 PUBLIC RECORDS ACT.** Consultant acknowledges that the City is subject to the Public Records Act, chapter 42.56 RCW (the "PRA"). All records owned, used, or retained by the City are public records subject to disclosure unless exempt under the PRA, whether or not the records are in the possession or control of the City or Consultant. All exemptions to the PRA are narrowly construed.

a. **Confidential Information.** Any records provided to the City by the Consultant which contain information that the Consultant in good faith believes is not subject to disclosure under the PRA shall be marked "Confidential" and shall identify the specific information that the Consultant in good faith believes is not subject to disclosure under the PRA and a citation to the statutory basis for non-disclosure.

b. **Responding to Public Records Requests.** The City shall exercise its sole legal judgment in responding to public records requests.

- (1) The City may rely upon the lack of notification from the Consultant in releasing any records that are not marked “Confidential.”
- (2) If records identified as “Confidential” by the Consultant are responsive to a PRA request, the City will seek to provide notice to Consultant at least ten (10) business days before the date on which the City anticipates releasing records. The City is under no obligation to assert any applicable exemption on behalf of the Consultant. The Consultant may seek, at its sole cost, an injunction preventing the release of information which it believes is protected. In no event will the City have any liability to Consultant for any failure of the City to provide notice prior to release.
- (3) If the City, in its sole legal judgment, believes that the Consultant possesses records that (1) are responsive to a PRA request and (2) were used by the City, the City will request the records from the Consultant. The Consultant will, within ten (10) business days:
  - i. Provide the records to the City in the manner requested by the City;
  - ii. Obtain a court injunction, in a lawsuit involving the requester, covering all, or any confidential portion of, the records and provide any records not subject to the court injunction; or
  - iii. Provide an affidavit, in a form acceptable to the City Attorney, specifying that the Consultant has made a diligent search and did not locate any requested documents.

c. **Indemnification.** In addition to its other indemnification and defense obligations under this Agreement, the Consultant shall indemnify and defend the City from and against any and all losses, penalties, fines, claims, demands, expenses (including, but not limited to, attorneys fees and litigation expenses), suits, judgments, or damages (collectively “Damages”) arising from or relating to any request for records related to this Agreement, to the extent such Damages are caused by action or inaction of the Consultant. This indemnification and defense obligation shall survive the expiration or termination of this Agreement.

**4.5 MAINTENANCE/INSPECTION OF RECORDS.** The Consultant shall maintain all books, records, documents, and other evidence pertaining to the costs and expenses allowable under this Agreement in accordance with generally accepted accounting practices. All such books and records required to be maintained by this Agreement shall be subject to inspection and audit by representatives of the City and/or the Washington State Auditor at all reasonable times, and the Consultant shall afford the proper facilities for such inspection and audit.

Representatives of the City and/or the Washington State Auditor may copy such books, accounts, and records where necessary to conduct or document an audit. The Consultant shall preserve and make available all such books of account and records for a period of three (3) years after final payment under this Agreement. In the event that any audit or inspection identifies any discrepancy in such financial records, the Consultant shall provide the City with appropriate clarification and/or financial adjustments within thirty (30) calendar days of notification of the discrepancy.

#### **4.6 INDEMNITY.**

a. **Indemnification and Hold Harmless.** The Consultant shall defend, indemnify, and hold the City, its officers, officials, employees, and volunteers harmless from any and all claims, injuries, damages, losses, or suits including attorney fees, arising out of or resulting from the acts, errors, or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

b. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence.

c. The provisions of this Section 4.6 shall survive the expiration or termination of this Agreement.

d. The Consultant hereby knowingly, intentionally, and voluntarily waives the immunity of the Industrial Insurance Act, Title 51 RCW, solely for the purposes of the indemnity contained in subpart "a" of this Section 4.6. This waiver has been mutually negotiated by the parties.

\_\_\_\_\_(initials) \_\_\_\_\_(initials)

#### **4.7 INSURANCE.**

a. **Insurance Term.** The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the Services hereunder by the Consultant, its agents, representatives, or employees.

b. **No Limitation.** Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

c. **Minimum Scope of Insurance.** Consultant shall obtain insurance of the types and coverage described below:

- (1) Automobile Liability insurance covering all owned, non-owned, hired, and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage.
- (2) Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the Services performed for the City using an additional insured endorsement at least as broad as ISO CG 20 26.
- (3) Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
- (4) Professional Liability insurance appropriate to the Consultant's profession.

d. **Minimum Amounts of Insurance.** Consultant shall maintain the following insurance limits:

- (1) Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
- (2) Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
- (3) Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

e. **Other Insurance Provision.** The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City. Any Insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

f. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

g. **Verification of Coverage.** The Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the Services.

h. **Notice of Cancellation.** The Consultant shall provide the City with written notice of any policy cancellation within two business days of the Consultant's receipt of such notice.

i. **Failure to Maintain Insurance.** Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five (5) business days notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.

j. **Insurance to be Occurrence Basis.** Unless approved by the City all insurance policies shall be written on an "Occurrence" policy as opposed to a "Claims-made" policy. The City may require an extended reporting endorsement on any approved "Claims-made" policy.

k. **City Full Availability of Consultant Limits.** If the Consultant maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

**4.8 LEGAL RELATIONS.** The Consultant shall comply with all federal, state, and local laws, regulations, and ordinances applicable to the Services to be performed under this Agreement. The Consultant represents that it and all employees assigned to perform any of the Services under this Agreement are in full compliance with the statutes of the State of Washington governing the Services and that all personnel to be assigned to the Services are fully qualified and properly licensed to perform the work to which they will be assigned.

**4.9 INDEPENDENT CONTRACTOR.**

a. The Consultant and the City understand and expressly agree that the Consultant is an independent contractor in the performance of each and every part of this Agreement. The Consultant expressly represents, warrants, and agrees that the Consultant's status as an independent contractor in the performance of the Services required under this Agreement is consistent with and meets the six-part independent contractor test set forth in RCW 51.08.195 or as hereafter amended. The Consultant, as an independent contractor, assumes the entire responsibility for carrying out and accomplishing the Services required under this Agreement. The Consultant shall not make

a claim of City employment and shall not claim any related employment benefits, social security, and/or retirement benefits.

b. The Consultant shall be solely responsible for paying all taxes, deductions, and assessments, including but not limited to federal income tax, FICA, social security tax, assessments for unemployment and industrial injury, and other deductions from income which may be required by law or assessed against either party as a result of this Agreement. In the event the City is assessed a tax or assessment as a result of this Agreement, the Consultant shall pay the same before it becomes due.

c. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work to the Services that the Consultant performs under this Agreement.

d. Prior to commencement of Services, the Consultant shall obtain a business license from the City.

#### **4.10 EMPLOYMENT.**

a. The term “employee” or “employees” as used herein shall mean any officers, agents, or employee of the Consultant.

b. Any and all employees of the Consultant, while performing any Services under this Agreement, shall be considered employees of the Consultant only and not of the City. The Consultant shall be solely liable for: (1) any and all claims that may or might arise under the Workman’s Compensation Act, Title 51 RCW, on behalf of any said employees while performing any Services under this Agreement, and (2) any and all claims made by any third party as a consequence of any negligent act or omission on the part of the Consultant or its employees while performing any Services under this Agreement.

c. The Consultant represents, unless otherwise indicated below, that all employees of the Consultant that will perform any Services under this Agreement have never been retired from a Washington State retirement system, including but not limited to Teacher (TRS), School District (SERS), Public Employee (PERS), Public Safety (PSERS), law enforcement and fire fighters (LEOFF), Washington State Patrol (WSPRS), Judicial Retirement System (JRS), or otherwise. *(Please use initials to indicate No or Yes below.)*

\_\_\_\_\_ No, employees performing the Services have never been retired from a Washington state retirement system.

\_\_\_\_\_ Yes, employees performing the Services have been retired from a Washington state retirement system.



In the event the Consultant checks “no”, but an employee in fact was a retiree of a Washington State retirement system, and because of the misrepresentation the City is required to defend a claim by the Washington State retirement system, or to make contributions for or on account of the employee, or reimbursement to the Washington State retirement system for benefits paid, the Consultant hereby agrees to save, indemnify, defend and hold the City harmless from and against all expenses and costs, including reasonable attorney fees incurred in defending the claim of the Washington State retirement system and from all contributions paid or required to be paid, and for all reimbursement required to the Washington State retirement system. In the event the Consultant checks “yes” and affirms that an employee providing work has ever retired from a Washington State retirement system, every said employee shall be identified by the Consultant and such retirees shall provide the City with all information required by the City to report the employment with Consultant to the Department of Retirement Services of the State of Washington.

**4.11 NONASSIGNABLE.** Except as provided in Exhibit B, the Services to be provided by the Consultant shall not be assigned or subcontracted without the express written consent of the City.

**4.12 SUBCONTRACTORS AND SUBCONSULTANTS.**

a. The Consultant is responsible for all work or services performed by subcontractors or subconsultants pursuant to the terms of this Agreement.

b. The Consultant must verify that any subcontractors or subconsultants the Consultant directly hires meet the responsibility criteria for the Services. Verification that a subcontractor or subconsultant has proper license and bonding, if required by statute, must be included in the verification process. If the parties anticipate the use of subcontractors or subconsultants, the subcontractors or subconsultants are set forth in Exhibit B.

c. The Consultant may not substitute or add subcontractors or subconsultants without the written approval of the City.

d. All subcontractors or subconsultants shall have the same insurance coverage and limits as set forth in this Agreement and the Consultant shall provide verification of said insurance coverage.

**4.13 CONFLICTS OF INTEREST.** The Consultant agrees to and shall notify the City of any potential conflicts of interest in Consultant’s client base and shall obtain written permission from the City prior to providing services to third parties when a conflict or potential conflict of interest exists. If the City determines in its sole discretion that a conflict is irreconcilable, the City reserves the right to terminate this Agreement.

**4.14 CITY CONFIDENCES.** The Consultant agrees to and will keep in strict confidence, and will not disclose, communicate, or advertise to third parties without specific prior written consent from the City in each instance, the confidences of the City or any information regarding the City or the Services provided to the City.

**4.15 DISCRIMINATION PROHIBITED AND COMPLIANCE WITH EQUAL OPPORTUNITY LEGISLATION.** The Consultant agrees to comply with equal opportunity employment and not to discriminate against any client, employee, or applicant for employment or for services because of race, creed, color, religion, national origin, marital status, sex, sexual orientation, age, or handicap except for a bona fide occupational qualification with regard, but not limited to, the following: employment upgrading; demotion or transfer; recruitment or any recruitment advertising; layoff or terminations; rates of pay or other forms of compensation; selection for training; or rendition of services. The Consultant further agrees to maintain (as appropriate) notices, posted in conspicuous places, setting forth its nondiscrimination obligations. The Consultant understands and agrees that if it violates this nondiscrimination provision, this Agreement may be terminated by the City, and further that the Consultant will be barred from performing any services for the City now or in the future, unless a showing is made satisfactory to the City that discriminatory practices have been terminated and that recurrence of such action is unlikely.

**4.16 UNFAIR EMPLOYMENT PRACTICES.** During the performance of this Agreement, the Consultant agrees to comply with RCW 49.60.180, prohibiting unfair employment practices.

**5. CITY APPROVAL REQUIRED.** Notwithstanding the Consultant's status as an independent contractor, the Services performed pursuant to this Agreement must meet the approval of the City, which shall not be unreasonably withheld if the Services have been completed in compliance with the Scope of Services and City requirements.

**6. GENERAL TERMS.**

**6.1 NOTICES.** Receipt of any notice shall be deemed effective three (3) calendar days after deposit of written notice in the U.S. mail with proper postage and address.

Notices to the City shall be sent to the following address:

**CITY OF MARYSVILLE**

Jan Berg

City of Marysville

1049 State Avenue

Marysville, WA 98270

Notices to the Consultant shall be sent to the following address:

**BILLING DOCUMENT SPECIALISTS**

Patricia Azbill, Project Development  
915 Main Street, Suite 1000  
Caldwell, ID 83605

**6.2 TERMINATION.** The City may terminate this Agreement in whole or in part at any time by sending written notice to the Consultant. As per Section 6.1, the Consultant is deemed to have received the termination notice three (3) calendar days after deposit of the termination notice in the U.S. mail with proper postage and address. The termination notice is deemed effective seven (7) calendar days after it is deemed received by the Consultant.

If this Agreement is terminated by the City for its convenience, the City shall pay the Consultant for satisfactory Services performed through the date on which the termination is deemed effective in accordance with payment provisions of Section 3, unless otherwise specified in the termination notice. If the termination notice provides that the Consultant will not be compensated for Services performed after the termination notice is received, the City will have the discretion to reject payment for any Services performed after the date the termination notice is deemed received.

**6.3 DISPUTES.** The parties agree that, following reasonable attempts at negotiation and compromise, any unresolved dispute arising under this Agreement may be resolved by a mutually agreed-upon alternative dispute resolution of arbitration or mediation.

**6.4 EXTENT OF AGREEMENT/MODIFICATION.** This Agreement, together with exhibits, attachments, and addenda, represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This includes, specifically, that the prior contract entered into by the parties and dated December 13, 2016, which is hereby repudiated, dissolved, and superseded by this Agreement. This Agreement may be amended, modified, or added to only by a written supplemental amendment properly signed by both parties.

**6.5 SEVERABILITY.**

a. If a court of competent jurisdiction holds any part, term, or provision of this Agreement to be illegal or invalid, in whole or in part, the validity of the remaining parts, terms, or provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

b. If any part, term, or provision of this Agreement is in direct conflict with any statutory provision of the State of Washington, that part, term, or provision shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed

modified to conform to such statutory provision.

**6.6 NONWAIVER.** A waiver by either party of a breach by the other party of any covenant or condition of this Agreement shall not impair the right of the party not in default to avail itself of any subsequent breach thereof. Leniency, delay, or failure of either party to insist upon strict performance of any agreement, covenant, or condition of this Agreement, or to exercise any right herein given in any one or more instances, shall not be construed as a waiver or relinquishment of any such agreement, covenant, condition, or right.

**6.7 FAIR MEANING.** The terms of this Agreement shall be given their fair meaning and shall not be construed in favor of or against either party hereto because of authorship. This Agreement shall be deemed to have been drafted by both of the parties.

**6.8 GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

**6.9 VENUE.** The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court of Washington for Snohomish County, Washington.

**6.10 COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement.

**6.11 AUTHORITY TO BIND PARTIES AND ENTER INTO AGREEMENT.** The undersigned represent that they have full authority to enter into this Agreement and to bind the parties for and on behalf of the legal entities set forth herein.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

CITY OF MARYSVILLE

Valli Information Systems

By: \_\_\_\_\_  
Jon Nehring, Mayor

By: \_\_\_\_\_  
Bob Jenkins  
Its: President

Attested/Authenticated:

\_\_\_\_\_  
April O'Brien, Deputy City Clerk

Approved as to form:

---

Jon Walker, City Attorney

## **EXHIBIT A**

### **Scope of Services**

The Consultant will provide the Services requested by the City in conformance with the proposal it submitted to the City's request for proposals related to online bill presentation, bill payments, and bill notifications (the "Proposal"). The Consultant's Proposal is attached hereto and incorporated by this reference. The Consultant will invoice the City for Services provided, in conformance with the terms of its Proposal.

The Consultant's Proposal identified Gravity Payments, Inc. ("Gravity") as the payment processor and the Consultant coordinated with Gravity in submitting its Proposal. The City will contract directly with Gravity for payment processing services subject to certain Program Terms and Conditions that are a part of the City's agreement with Gravity. The Consultant agrees and acknowledges that it has received and reviewed the Program Terms and Conditions and agrees and acknowledges that the City is relying upon the Consultant to satisfy Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20, Appendix 1, Appendix 2, Appendix 3, and Appendix 4 of the Program Terms and Conditions, to the extent applicable. The Consultant warrants that it can satisfy the City's obligations to Gravity under these sections.

The Consultant represents and agrees that it has a working or contractual relationship with Gravity and that the Consultant and Gravity will collaborate to assure that the Consultant's payment portal effectively interfaces and operates with Gravity's payment processing services. The Consultant will take all actions possible and will make all efforts to assure that the Consultant's payment portal interfaces and operates with Gravity's payment processing services throughout the term of this Agreement.

The Consultant will bill the City for the Consultant's Services as detailed in its Proposal and agrees and acknowledges that Gravity will separately bill the City for Gravity's fees as detailed in the Consultant's Proposal. In no event will the Consultant invoice or request payment from the City for fees associated with Gravity's payment processing services.



915 Main Street, Suite 1000 Caldwell, Idaho 83605  
800.627.3283 • f 208.459.3680 • www.billingdoc.com

City of Marysville

1049 State Avenue

Marysville, Washington 98270-4234

RE: RFP Online Bill Presentation, Online Bill Pay and Phone Payment Line plus Email, Text and Phone Call Notifications

Dear RFP Decision Committee,

Billing Document Specialists (BDS) would like to thank you for the opportunity to present our services and pricing for the above RFP. BDS has thoroughly read, and understands all aspects of the scope of work for this RFP. BDS further agrees to execute all terms of this contract if awarded.

With over 30 years of experience, BDS is always focused on providing better ways of reducing the cost of and improve services to City agencies. We encourage the City of Marysville to review our submission to see how BDS can provide an entire solution to ultimately save time and money. We are the true "One Stop Shop" to provide payment services. Because all of our services are "in house" you will have complete accountability with a level of service that is unsurpassed in the industry.

All of the pricing is attached and BDS will be happy to go through it and answer any questions you may have. We look forward to working with you.

Sincerely,

*Patricia Agbill*

Sales and Marketing

Billing Document Specialists, Inc.

To Whom It May Concern:

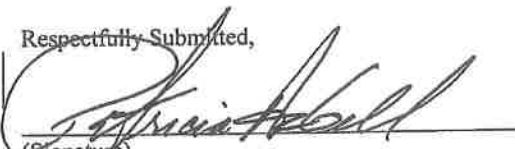
The following proposal is made for furnishing the materials and/or services for the City of Marysville, Office of the City Clerk.

The undersigned declares that the amount and nature of the materials/services to be furnished is understood and that the nature of this proposal is in strict accordance with the conditions set forth and is a part of this proposal, and that there will at no time be a misunderstanding as to the intent of the specifications or conditions to be overcome or pleaded after the proposals are received.

The undersigned, in submitting this proposal, represents that they are an equal opportunity employer, and will not discriminate with regard to race, religion, color, national origin, age and sex in the performance of this contract, if awarded.

The undersigned hereby proposes to furnish their goods and services F.O.B. City of Marysville, at the unit prices quoted herein after notice of proposal award.

Respectfully Submitted,

  
(Signature)

7-27-2016  
(Date)

Patricia Azbill Corp Sect.  
(Print Name) (Title)

Valli Information Systems Inc. DBA Billing Documents Specialists  
(Company Name)

915 Main Street, suite 1000, Caldwell, ID 83605  
(Mailing Address) (Street) (City) (State) (Zip)

208-459-3611 208-459-3680  
(Phone Number) (Fax Number)



Category UTILITY BILLING  
 Item # Description

**VENDOR QUESTIONNAIRE**

CATEGORY	ITEM #	QUESTIONS	ANSWERS
<b>QUESTIONNAIRE</b>			
General Company Info	1	Provide location of where business functions are located.	915 Main Street, Caldwell, ID
General Company Info	2	Describe your company--sole proprietorship, partnership, corporation, etc.	Corporation
General Company Info	3	Do you have any restrictions on the number of transactions made on a daily basis?	None unless the Clients request a limit or dollar amount
General Company Info	4	The Vendor will need to include a detailed description of the vendor's disaster recovery plan. The City will need to know what to expect and when in the event of a failure on the part of the vendor.	See Attached Disaster Recovery Plan
General Company Info	5	Can vendor power up and continue to run operations even with out power from the electric company grid.	No, but we can transfer our operations to one of two other physical locations, in New Mexico or Alaska, see disaster recovery plan for details
General Company Info	6	Vendor will provide total years experience using Munis UBCIS software if applicable and the number of customers currently using the software	BDS has printed & Mailed the bills and provided lockbox services for the City of Marysville since 2014. We provide similar services to other Cities using Munis UBCIS, other vendor software packages and custom software for over 25 years
General Company Info	7	Provide a minimum list of Five (5) companies or governmental agencies that currently utilize your services in a similar manner. Preferably governmental agencies.	See attached Reference list
General Company Info	8	Is the vendor's primary business function online and phone payment processing or is it online bill presentation services or both?	Both, BDS has been providing printing & Mailing services for cities for over 25 years, added payment and online bill presentation services in 2005
General Company Info	9	For payment processing, is that service subcontracted? And any fees associated with processing payments, are they billed by the Vendor or a 3rd party?	Merchant fees are billed by the Merchant processor, for this RFP, Gravity Payments would be the merchant processor, see attached Gravity proposal.
Implementation	10	Describe your implementation process and plan. Including mobile apps for Android, Apple and Windows applications.	Once the merchant gateway has been established, BDS will supply a url link to be "posted" to the City's web site. The web address can be accessed by any device that can access the web, the "page" is scaled to be user friendly See detailed Plan Implementation process
Implementation	11	Specify what would be a standard set up time for implementation.	4 to 6 weeks to complete customization of payment site to meet specifications, depending of response time from the city of approval including the 2 to 3 weeks to set API to merchant processor gateway and final testing to go live.
Performance	12	If a data file is provided by 11:59PM., provide a time when the updated customer balances and bill print presentation would be updated?	Upon receipt of update balance files the data file is automatically processed and new balances are available online within in a few minutes. BDS already has pdf images of all bills that we print & Mail, they would be available as soon as the print files have been approved, and archived for 24 months by account.
Performance	13	Detail the process and requirements for special inserts or selective insertions to be displayed online?	BDS already has special inserts pdf images attached to the selective or all pdf images of the bills printed & mailed.
Performance	14	Will vendor provide a dedicated staff member to Marysville's account that will be available when needed to discuss an issue?	BDS has a customer service Team, that will be available to discuss any issues, all communications are cc to the team so that they are aware of any existing problems and ready to respond to any questions either by phone or email.
Performance	15	The vendor must provide a link to the payment web site that will be posted and used on the City Website, any updates should not change the link, what is the process to ensure the web site link will remain the same?	BDS provides the URL link to the City, but retains the control of the screen pages, any changes must be approved by the city. The city can also request special messages or notices to be displayed on the log in screen by email to the Csteam.

Performance	16	Vendor will need to provide a Toll Free number, in which the City will forward it's own phone pay line to.	For the IVR service a dedicated toll free number is provided to the city, the city can forward its own phone pay line to.
Performance	17	Payment Cut Off is 3pm daily, including weekend and holidays. How will the vendor provide the payment posting filing and at what time? Does the vendor have a reporting web site in which the City can download the files at 3:01pm or anytime after that?	BDS can set the merchant processor gateway to "batch" at any specified time, BDS would program the reporting to match that time frame. All reports are generated in real time, including the import file back to the city cash receipting. This file and reports can be accessed either on our BDS Admin site or we can program it to automatically upload to a SFTP for the City to auto pull and post.
Performance	18	Regardless of circumstances, all deadlines, processes and 1 business day requirements can be met by the vendor (including but not limited to vacations, illnesses, etc.)	BDS has total cross trained personnel to cover any emergencies, vacations etc. Payment services funding, if batched before 7 PM deposits will funds to bank next business day
Performance	19	Can the vendor provide an website dedicated to City Staff to be an administrator to view payments, cancel payments for the current cutoff period only(3pm previous day to 3pm today), download reports, view customer accounts, help customers walk through setting up an account, have the ability to initiate text, email and call notification, plus any other administrative duties necessary to fully utilize the vendor's product.	BDS will provide the City access to the secure BDS Admin site for city supervisor, & provide separate users access if requested with limited access for other staff members if requested. BDS will also setup City supervisor access to the Merchant Gateway with username and password for voids, refunds and backup reporting. The BDS Admin site, will have import files and reports by day, date range searches, list of all accounts signed up for e statements or auto payments. Account number search with min. of 24 month archives of bill pdf images history of all payments successful and those declined or not completed.
Performance	20	Provide a process to schedule auto phone calls, text and emails at 5pm on Friday nights with a predetermined message to notify potential customers of disconnection, along with the options for payment and deadline to make the payment by. City will provide a format for customer information, including name, phone number, cell number and email.	BDS currently has a proven outgoing autophone system for shut off notices with the ability to make credit card payments. This service generates a report by account of the status of the call, received, hung up, went to VM etc. We can add the text and emails to this, but it will take some additional development time. BDS does have texting and emails for the e bills but not currently for the shut off notice programming.
Performance	21	For customer authentication, the City uses a 12 digit account number and 1-8 digit Customer Information Number (CID), this authentication will need to be entered prior to any payment processing, can the Vendor provide this for both one time payments and customer login accounts?	BDS has the data base with all three validation numbers from the Print & Mail files we receive, Bill number, Customer number and Account number, we can use any or a combination of numbers for validation
Performance	22	Deposits of City Funds must be done electronically and within 1 business day of receipt, does the vendor have any requirements that prevent this process from occurring?	No problem if the end of processing day is closed at any time before 5 PM Pacific Time, the merchant processor can fund to the bank next business day.
Performance	23	Does your product provide customers the ability to reset their own password via email? And does the login requirements include security questions?	Yes there is a forgot password option on the login screen, a temp password will be send to the email provided in the original username setup. There is a security question required for any additional information. The customers can do a one time payment without setting up a username, we require two validations, account number and one other of client's choice. Normally the first 4 of the name as it appears on the bill, that takes them to an express payment screen where they can add additional accounts to pay, an select the amount to pay on each account, enter credit card data and submit.
Performance	24	What does your company invoice for, access to web bills, emails, text and calls? What about merchant charges for credit cards, debit cards and ach transactions from checking and savings accounts? The City qualifies for a lower credit card rate for Utility Services, do your fees take that into account when processing payments?	BDS has a monthly maintenance charge for payment services that covers all reporting, customer service, payment screen message changes etc. There is a per e bill email, and separate fee for auto phone calls etc. see price sheet
Performance	25	Does your company provided automatic emails and texts to customers when a new bill is ready? When a payment is made?	If the customer has requested e bill notification, an automatic email is generated as soon as the print file has been approved, for Payment services auto emails if successfully signed up for auto payment, when auto payment has been processed, when debit / credit card is expiring etc. In addition the Merchant account can be set to email the city confirmation of all payment etc.
Performance	26	Describe your customer service philosophy.	Customer service is our number 1 priority. Our cs team is well cross trained to handle all questions, and if they have to reach to programing to resolve a problem, follow up with the client is immediate and again as soon as there is an explanation or resolution.



915 Main Street, Suite 1000 Caldwell, Idaho 83605  
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**Schedule of Fees**

**Online, Scheduled, Phone, and CSR made payments per month:**

See attached merchant cost details.

	Estimated Monthly Count	Estimated Monthly Dollar Volume	Merchant Fee Percentage	Total Fees Charged to City
April Mastercard Debit	926	238,413	0.71%	1,689.97
April Mastercard Credit	331	85,221	0.71%	604.08
April Visa Debit	1,398	359,937	0.71%	2,551.38
April Visa Credit	1395	359,165	0.71%	2,545.91
April Discover	38	9,784	0.71%	69.35
April Savings Account	4	203	0.87%	1.76
April Checking Account	745	149,153	0.72%	1,073.83
				0.00
May Mastercard Debit	991	212,341	0.72%	1,521.78
May Mastercard Credit	314	67,281	0.72%	482.18
May Visa Debit	1492	319,691	0.72%	2,291.13
May Visa Credit	1165	249,624	0.72%	1,788.98
May Discover	34	7,285	0.72%	52.21
May Savings Account	2	397	0.72%	2.86
May Checking Account	583	115,348	0.72%	831.13

	Estimated Monthly Count	Fee Per Notification	Total Fees Charged to City
Cost of Email, Phone, and Text notification to warn of impending shut off (typically 100 - 200 per week)	700	0.10	70.00
Cost of new bill notification to send via email and text	13,000	0.15	1,950.00
Cost to send payment notification via email and text	5,000	0.05	250.00
If your company has the ability to allow email notification on demand, what is the cost for this service	2,300 to		
should the city want to send emails either City Wide or to a specific group of customers	22,000	0.03	
setup per email run	1	75.00	

Who is your merchant processing company for payments? Gravity Payments  
 Does your company receive the lower Merchant fee costs for utility payments? Yes

**Please list any other monthly recurring charges with a description of what the charge is for.**

NMI Gateway Monthly Cost			10.00
NMI Gateway Transaction Fees (\$.10 per transaction)			458.10
NMI Return E CHECK Payment Fee	TBD	2.50	

**Please list any annual charges with a description of what the charge is for.**

<b>Please list any recurring charges that may be charged to the city that occur randomly or infrequently and a description of what the charge is for.</b>			None
BDS monthly maintenance fee, including payment portal message update import files & all reporting			None
BDS Per successful transaction	4837	0.05	241.85
BDS IVR per payment charge: This cost can be collected from the customer	tbd	1.00	

**Cost to set up**

Initial programming and set up without any major customization to standard payment portal		750.00	750.00
Over the Counter setup		250.00	250.00
IVR set up initial customization of recorded messages and toll free number		100.00	100.00
Optimal Card readers, MagTek HID credit / debit card readers per reader		75.00	75.00
Any other 1 time costs associated with start up - if required customization to payment portal per hour rate		125.00	
Training		no charge	

Estimated time from receipt of print file to online customer viewing  
**Upon approval of Print File to online customer viewing**

**30 minutes**

Estimates time from receipt of print file to bill notification in customer's mailbox  
**Upon approval of Print File to online customer viewing**

**30 minutes**

Estimated time from processing payments to deposit into city bank account  
**Credit / Debit transaction**

**next business day**

**E check / ACH transactions**

**2 to 3 business days**

What is your deadline for providing the information necessary for making Email, text and phone notifications and do we have the ability to schedule the calls, typical 5 pm on Friday Evenings  
**BDS provided a portal on the BDS Admin site for the city to upload accounts for notifications by phone etc. normally the notifications will start within minutes of the file being upload, or we can program them to run on a specified time.**

What are your customer service hours, do you have a phone number and email to contact your representatives?

**8 AM to 5 PM Mountain time.**

**csteam@vall.com is a group email address to everyone in production and payment services. Management level personnel have emails automaticall forwarded to their cell phones for emergencies.**

Any Additional Services or products that could benefit the City, please list here.



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## MINIMUM QUALIFICATIONS

The following are minimum qualifications and licensing requirements that the Vendor must meet in order for their proposal submittal to be eligible for evaluation. The City requests a one-page or appropriate-length document as part of your proposal response, to clearly show compliance to these minimum qualifications. The RFP Coordinator may choose to determine minimum qualifications by reading that single document alone, so the submittal should be sufficiently detailed to clearly show how you meet the minimum qualifications without looking at any other material. Those that are not clearly responsive to these minimum qualifications shall be rejected by the City without further consideration:

**Payments:** The proposed solution must support electronic checks (ACH) payments from checking and saving accounts, Debit and Credit Cards Visa, MasterCard at a minimum and if possible Discover and American Express.

BDS with Gravity Payments as the merchant processor can support electronic check (ACH) payments from checking or savings, Debit and Credit Cards for all 4 major, VISA, MasterCard, Discover and AMEX, with the understanding the interchange rates for AMEX can increase the cost to the City.

BDS will build a URL for the city to post to their web site for online payments, using API communications with the gateway BDS will send payment transactions and receive back in real time either confirmation or denial of the transactions.

**PCI Compliance:** The Vendor must provide certification of compliance with all current Payment Card Industry (PCI) standards.

BDS has attached the last quarter certificate of PCI compliance from Secure Metrics, BDS has contracted Secure Metrics to test our servers / IP addresses for compliance every quarter. This service has been in place for over 10 years and BDS has always completed any changes or upgrade to be compliant.

**PABP Compliance:** The Vendor must provide certification of compliance with all current Payment Application Best Practices (PABP) standards

BDS has attached our latest compliance of the SSAE16 third party audit of our company practices which meet or exceed the PABP Standards. We are also in the final stages of our annual renewal of this audit which will be available in 30 days or less.

The SSAE audit covers everything from our physical structures, HR practices and servers security. BDS can provide the 50+ page document if requested.

**Relevant Experience:** Vendor must have a minimum of three (3) successful experience E-Payment business.

BDS has been offering E-payment services to our clients since 2005 with over 115 clients

currently using various or all options of our payment services. Many of which have been using the services for over 10 years.

**Experienced Staff:** The primary staff assigned to the project must have completed at least two (2) previous successful implementations of E-Payment software.

As marketing manager, myself, Patricia Azbill, will be primary in initial setup. With over 13 years at Valli Information Systems, parent company of BDS, I have been personally involved in all new accounts for payment services. Our supervisor of the Customer service Michelle Gandolfo has been with BDS since 2008, programmer Steve Nutting has been with BDS since 2005 and both has been primary staff involved in all E payment setup.

**Certified Reseller (or Factory Authorized Reseller):** The Vendor, if other than the manufacturer, shall submit with the proposal a current, dated, and signed authorization from the manufacturer that the Proposer is an authorized distributor, dealer or service representative and is authorized to sell the manufacturer's products. Failure to comply with this requirement may result in bid rejection. This includes the certification to license the product and offer in-house service, maintenance, technical training assistance, and warranty services, including availability of spare parts and replacement units if applicable.

All programming is developed by BDS and there is no Vendor Reseller involvement.

## MANDATORY TECHNICAL REQUIREMENTS

The following are mandatory technical requirements that the Vendor must that must meet for the proposal to remain eligible for consideration. You must clearly show that your product or service meets these mandatory technical requirements, or your proposal will be rejected as non-responsive. The City requests a one-page or appropriate-length document as part of your proposal response, to clearly show compliance to these mandatory technical requirements. The RFP Coordinator may choose to determine mandatory technical requirements by reading that single document alone, so the submittal should be sufficiently detailed to clearly show how you meet the mandatory technical requirements without looking at any other material. Those that are not clearly responsive to these mandatory technical requirements shall be rejected by the City without further consideration:

The proposed solution must be able to accept Credit/Debit Card Payments using Web API / Web Service, hosted bill payments, and IVR.

BDS payment services use WEB API to process one-time credit / debit and ACH transactions for all payment solutions integrated with Gravity Payments for the Processor.

The proposed solution must be able to accept one-time ACH Payments using Web API / Web Service, hosted bill payments, and IVR.

Online services, if the consumer sets up a username and password will have access to pdf images of all accounts attached to that user for up to 24 months. Archives history will include all payments processed by BDS for successful and those declined for the same 24 months.

BDS already has pdf images of the bills archived from the Print & Mail service with history of payments made via the Lockbox service. New user setup will also have access to any check payments received and posted to attach accounts.

Currently for IVR and online reoccurring payments we currently do not accept ACH (Echecks). Processors can validate the routing number of ACH transactions but cannot validate account numbers entered for payment transactions. Due to the fact that over 90% of the online returned

ACH / Echeck are due to “unable to locate” account. To have a re-occurring payment established with invalid ACH transaction information would just create more accounting issues for our clients. If the City still wishes to have the ACH/ Echeck option for reoccurring and IVR BDS can make programming changes that will only be in effect after we have live data to run testing and validation.

The proposed solution must be able to establish recurring payments for credit cards, debit cards, and ACH.

Reoccurring payments are customer determined, the customer can select the month to start, the day of the payment to pull, they can detach accounts from the re occurring, change credit/ debit card information. BDS will notify the customer by email if the expiration date needs to be updated. The city staff will also have the ability to detach a user on any account if necessary which will also clear any reoccurring scheduled payment in the event that the customer did not delete the setup.

The proposed solution must allow customers to make payment without creating a user-id/login.

The customer can make an online payment using the “express pay” without setting up any user names or password. They just enter the customer number or account number and enter either the first 4 of the name or other additional validation as requested by the city.

The account / accounts will appear on the payment screen with the amounts due per account. The customer can edit the amount (if the city wishes) and proceed to enter their credit card information to process the payment. A confirmation screen will appear if the payment is successful with the transaction ID., or error message if declined or invalid data was entered.

The proposed solution must provide an expanded choice of payment options to select payment processing options for types of credit cards accepted, payment channel (Web, IVR, OBO, etc.), web payment integration (API, pass-through, hosted, etc.), and convenience Fees (percentage-based or flat fee). The City currently does not charge a fee for online, phone or CSR initiated payments, as well as qualifying for the lower utility rate on merchant fees. The City’s goal is to continue the no fee to the customer option, but the RFP must include all options.

BDS has a “Revenue Neutral” processor (Point & Pay) for those clients who want to have a fee that the consumer pays to cover the cost of credit / debit / ach transactions. The fees are collected and paid directly to the processor. The merchant (the city) receives no bills.

The fees range from 2.75% to 3.5 % or a min of \$2.00 for credit / debit card and a flat fee of \$2.50 for ACH / Echecks depending on volume. For the City of Marysville based on the estimated transactions on the pricing sheet, the % would be 2.75% with a min of \$2.00 and the flat fee of \$2.50

The other advantage of this processor is that they fund everything up front, it would be a second business day funding but it would include all transactions credit/debit/ACH in one deposit matching the import. There would be no separate deposit for ACH transactions. They accept all 4 major cards, VISA, MasterCard, Discover and AMEX. Again the city would receive no bills for the credit card / ACH merchant processing.

The proposed solution must be able to authorize credit/debit card transactions real-time.

All debit / credit cards transactions are validated as successful or declined in real time and posted to all search reports immediately. BDS can validate the routing numbers on any ACH / echeck transactions but not the account numbers. BDS posts the transaction to all search reports

immediately. All payment types are batched at the time requested by the city, by the processor and by BDS, so that the imported payments will match the deposits to the bank.

The proposed solution must be able to validate ABA routing and transit numbers for ACH payments real time.

BDS can validate the routing numbers on any ACH / echeck transactions but not the account numbers. BDS posts the transaction to all search reports immediately.

The proposed solution must be able to provide payment data files that includes user defined data.

BDS will build the import file and reports to meet the specification, account details, needed by the city. In addition we currently provide a date range search tool that will pull a csv report of all payment type including date paid, account number, transaction ID, and payment type.

In addition BDS provides a look up by account that the city can use, that has all pdf images of bills printed & Mailed, all payments successful and non-successful by type of payment.

The proposed solution must be able to transmit payments details to the bank.

We are not sure what this item on the RFP is asking for. Normally the deposits to the bank are in batch totals, but detailed reports are available both from the payment processor gateway and the BDS Admin site. If required to be forwarded to the bank this can be established

The Vendor must be able to provide an independent test report stating the application is free from known security defects.

BDS has attached our latest compliance of the SSAE16 third party audit of our company practices which meet or exceed the PABP Standards. We are also in the final stages of our annual renewal of this audit which will be available in 30 days or less.

The SSAE audit covers everything from our physical structures, HR practices and servers security. BDS can provide the 50+ page document if requested.

## MINIMUM LICENSING AND BUSINESS TAX REQUIREMENTS

This solicitation and resultant contract may require additional licensing as listed below. The Vendor needs to meet all licensing requirements that apply to their business immediately after contract award or the City may reject the Vendor.

Companies must license, report and pay revenue taxes for the Washington State Business License (UBI#) and Marysville Business License, if they are required to hold such a license by the laws of those jurisdictions. The Vendor should carefully consider those costs prior to submitting their offer, as the City will not separately pay or reimburse those costs to the Vendor.

BDS is licensed with the State of Washington to collect taxes on taxable items and does report for the City of Marysville for the print & Mail services. The services outlined in this proposal are not, at this time, taxable. In the event that the State should change the regulations on taxable services in the future BDS would invoice the State for any tax required.





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## BDS Background

2016 marks the 33rd year in business for Valli Information Systems, the parent company of Billing Document Specialists. In the last 3 decades our company has expanded to offer multiple solutions to the aid Government employees in their day to operations.

In 2005 at the request of some of our City clients, BDS started offering integrated payment services for online, over the counter and IVR automated phone payments. Working with various Merchant Payment Processors, BDS designed payment portals that interface with the processors via an API connection to accept credit / debit and E check payments and then provide the clients import files that can automatically post the payments to their customer accounts.

These services have been improved and customized over the years with additional features requested by our city government clients to make these services user friendly and targeted for these types of services.

We have earned and retained our customer's business over the years by providing service that exceeds expectations and as a result is an impeccable value. We currently provides services to more than 40 similar sized cites to Marysville who utilize various City Management Software including but not limited to Munis(UBCIS), Tyler/Edensoft, SpringBrook, Caselle, Black Mountain, True Point, etc.

In today's electronic environment, customers want a company that offers extensive experience in electronically integrated customized options in addition to their mailing needs. With decades of operations in the industry coupled with our staff's experience, we are truly experts in the field. We are large enough to provide these complex solutions, but not too large that projects get bogged down from commitments to larger customer's demands or a web of corporate hierarchies. Our operations are fully capable of processing your payment service needs with the programming we have in place and customizing to add the additional services you specifically request in the RFP.

Since all of our programs are developed in-house if there is a feature you would like added, just ask. Our systems are not limited to "canned" off the shelf software used by most BDS competitors.

We have reviewed your file specifications within the RFP and have concluded that there are no foreseen issues that would impede programming or production as we providing services with similar file structures. We have never turned down a project due to lack of skills or failed in the programming of it.



## REQUIREMENTS AND SCOPE OF WORK

The selected Vendor/Contractor must have the ability to meet each of the requirements below. If a requirement cannot be met, please provide an alternative approach for consideration.

1. The selected Vendor/Contractor must have the ability to accept daily bill files and daily customer information files using an online upload or a standard secured FTP or SFTP transmission. The City must be able to log into the Vendor/Contractor's server and transmit the files daily, as needed.
2. The Vendor/Contractor must be able to accept the City's bill files in their current format, using the current transmission method. The City is unable to change the bill file format without manual intervention and/or a modification to the UBCIS system. Specific requirements are below:
  - A. The bill files will be presented in an XML format and Vendor/Contractor must be able to extract data from spool files generated through our billing system.
  - B. The City must be able to automatically connect to the Vendor/Contractor's secure FTP server to transfer the files.

**BDS is currently receiving and processing the above mentioned files for print & mail and are generating pdf images of all bills presented and archived for up to 24 months. We have this process in place and no additional programming or cost would be required.**

3. The City must be able to receive an electronic payment posting file daily (in the Munis Approved Format), with all payments from 3:00pm the previous day to 3:00pm the current day being considered the cut off time. The City must have online access to these files by 3:30pm to post the payments to customer accounts or if on a weekend or holiday be available for online access the following business day by 8am. (See Exhibit 4 Posting File)

**BDS is currently providing import files to the city's Munis software for lockbox payment processing. We would set the processor batch time to the required 3 PM PT and generate the import file to the existing sftp directory to be automatically pulled to "post". This file would automatically be generated and posted within minutes of the "end of day" batch at 3 PM PT.**

4. The City must approve a sample online bill and payment posting file, test the online bill pay process, phone pay line, customer service representative's ability to process a payment at

their own computer should a customer need assistance, and test the notification emails, text and phone calls before going into live production.

**The city currently is approving all pdf images of bills posted at time of production. It is our standard practice to have the BDS CS team would work with the city staff during setup to insure that all services are tested, have the staff generate payments from their PC's phones etc before going to live production.**

5. Vendor/Contractor must be able to notify a customer via email and text once a new bill is ready or a payment has been made.

**Currently in place: All city customers who use the BDS portal to sign up for e bills and have confirmed their email address will automatically receive email notifications that their bills is available to view once the print file has been approved. Payment confirmations are automatically sent after a payment has been confirmed. Payment confirmations can also be sent to a city staff member if requested.**

**To be added: the ability for the customer to request and confirm text messaging numbers. BDS currently has this process for County Tax payers, we would just need to add it to the city payment portal.**

The Vendor/Contractor must provide emails, text and phone calls to customers who are in danger of being shut off. The City will provide a list of customers, with phone numbers to call and text, along with email addresses in an excel file format at a time sufficient to have the notification go out on Fridays between 5pm and 6pm and occasionally at other times during the week. The City will provide the messaging that will need to be sent. The City may require a different message should the shut off date be changed for any reason (See Exhibit 5 Notifications).

**Currently in place: Clients upload to our BDS admin site, sets a list of account numbers, amounts and phone numbers, sets the date and time to run.**

**BDS runs the shut off calls to all phone numbers on the list. For Red flag regulations, once calls start, a series of recordings and questions will begin on the call. This is to confirm that the call is being answered by the person it was intended. If it is not the person it is intended, there is a request to have that person call the city. If it is the person it is intended for, the message continues to notify of past due amounts to contact the city or "pay now".**

**A report is generated in real time of the results of the calls. The reported items include: if answered, hung up, completed went to voice message etc. and if the customer made a payment.**

**Currently this service is only using credit / debit card because those can be confirmed as valid transactions. E check options are not currently offered to avoid multiple returned items due to unable to locate accounts errors because the customer enters invalid data. BDS can validate the routing number but not the account number and have had issues in**

**the past where a customer entered a valid routing and account number, but it was not their account and money was withdrawn from an unknown person's bank account.**

6. The Vendor/Contractor must be able to accommodate 4 types of bills; Regular, Past Due, Shut Off and Final. For Past Due and Shut Off notices, copies will be sent to the owner/property management company and will need to be available for display purposes only. The Customer Information File, sent daily, will provide the Account Number, Customer information, Customer ID, bill invoices, amount due and the due date.

**BDS already has all of this data and pdf images available for all 4 types of bills, each account has an account number, a bill number and a customer number for reference.**

7. The Vendor/Contractor must have the capability to present each bill independently of other bills so customers can view each bill in a PDF file that can be saved by the customer. Customers must be able to pay one bill or multiple bills at a time, and must be required to pay a bill that is beyond 30 days past due both online and over the phone pay line.

**BDS currently saves each bill as separate pdf images including and inserts printed and mailed to the customers.**

**For the Online service:**

**The customer can add multiple bills or enter the customer number and our programming will display all accounts under that customer number for the customer to select for payment.**

**The customer can do an express payment for a one time transaction for single or multiple payments or set up a username and password to save all accounts attached to that user using credit / debit or E check from either savings or checking.**

**BDS would need to program to require min. payments for bills that are "past due" BDS would work with the city to set those specifications for both online and phone payments.**

8. The Vendor/Contractor should have the capability to allow customers to automatically schedule payments on the due date of each bill using a credit or debit card, checking or savings account. The Vendor/Contractor should also have the capability to allow customers the options of making automatic payments in a set amount on a specified date, such as the 15<sup>th</sup> of each month.

**BDS currently has for the online payment services the ability for the customer to pay all accounts attached to the user automatically, the customer can set the month to start and the day for the payment to be processed. The payments are made early morning of the date set for the amount in the most current "update" balance file received by the city. If the amount in the latest update file is zero or has a credit balance, no payment is processed.**

**Currently for the reasons stated above to avoid ongoing and multiple invalid transactions:**

**This service is only using credit / debit card because those can be confirmed as valid transactions. E check options are not currently offered to avoid multiple returned items due to unable to locate account errors because the customer enters invalid data. BDS can validate the routing number but not the account number and have had experiences where a customer entered a valid routing and account number, but it was not their account and money was withdrawn from an unknown person's bank account.**

**Currently BDS is only offering E checks for online payments to single transactions if requested by the city to reduce the issues of invalid entries. If the City wants to add these services we can program to add it, with the disclaimer that the city is aware of the possible problems.**

9. The Vendor/Contractor should have the capability to:
- A. Update amount due daily from the Customer Information File and display that online and on the phone pay line.

**BDS currently has this service in place for our clients who provide us with a daily update file of all active account open balances. Preferred procedure would be once the city has posted the payments from the BDS import data file that an update file is generated and uploaded to BDS either via the sftp directory or via the BDS Admin site. The balances are then automatically updated in the BDS database and the new balance is available for all payment services.**

- B. Update Auto Pay amount to current amount from the Customer Information File so customers only get charged for the amount outstanding at the time of the auto pay.

**The auto payments are made early morning on the date set for the amount in the most current "update" balance file received by the city. If the amount in the latest update file is zero or has a credit balance, no payment is processed.**

- C. Provide clear direction when the auto pay will start for a customer so as they know if they have to make a manual payment or if the payment will be automatically made.

**The customer sets the month and day of the month to start. This functionality is available to the customer on their profit screen on the payment services link and they can delete the auto payment, and set a new month / day or card.**

**The city staff can also pull a report of all accounts that has signed up for auto payments, the last day paid and the next scheduled date.**

10. The Vendor/Contractor must provide an online resource in which the City's Customer Service Representatives have access so that they can log in to see real time up to date payments, customer account information, run reports if necessary, to see all payment history

**Using the BDS admin site the city staff has access by account number search to see in real time 24 months pdf images of all bills printed, all payments successful or attempted payments and current account balance in the BDS database per most current payments or update files received.**

- , to be able to take a payment, and be able to cancel a payment only within the 3pm to 3pm cutoff time of the current date. Access should restrict the ability to cancel a payment outside the cutoff time frame (such as on Thursday trying to cancel a payment made on Monday). Customer Service Representative should be able to reset customer passwords if necessary.

**The city staff can use the over the counter process to take a payment that will update all balances in real time. The city staff will have direct access to the merchant processor gateway to void a payment prior to set batch time of 3 PM PT, it will not allow any payments to be voided after that batch time, but will allow a payment to be refunded if necessary.**

**Via the BDS online services the customer can request a "forgot" password, the city staff under the same account number search will have the ability to see the user name attached and the email address it is associated with. If the customer cannot remember either, the city staff can validate on the phone the username and the customer can use that to reset their password.**

**In the event that the user is no longer associated with this account and did not "detach" the account, the city staff can detach accounts from a user so that another person can attach that account to their username and history. When a new user attaches an account the "history" starts at the time the new user is established.**

11. The Vendor/Contractor will provide requirements for customers to either establish a login to enable bill viewing, scheduling payments, making a payment, seeing bill history, the current balance and due date or to allow a customer to make a one-time payment without a login.

#### **BDS currently has this ability in place**

Based on the City's requirement to make a phone payment, an online one-time payment or to set up an account, the customer must be required to enter two pieces of information, their account number (12-digit number) and their customer ID number (CID) (which can be 1 or more digits).

**BDS currently has this ability in place for online payments. For the phone payments currently the customer enters their account number and the system reads them back the service address for validation prior to the customer proceeding to make a payment.**

**This can be programmed to add the customer to enter a second validation if required.**

For online customers, the Vendor/Contractor will need to provide 3 security questions and allow customers to reset their password on their own if they become locked out or forget their password.

**BDS does not retain on our servers any credit card information nor is it available on the online portal. Currently the customer can only get a new temporary password sent to the email address they established at the time the user name was established. We do not currently lock the site for multiple attempts. There is one security question required at the time of setup in the event that our customer service staff needs to communicate direct with the customer for any reason.**

**If the city feels that it needs to require additional steps to reset passwords, this can be programmed.**

12. Bill Inserts and Messages:

- A. The City will provide to the Vendor/Contractor a copy of bill inserts in which the Vendor/Contractor must provide an interface and user field so that customers can view and print online bill inserts
- B. Bill presentation must include any bill messaging and a notice that a bill insert is present and available to view.

**BDS already has the printable PDF images archived and ready to move forward with the service including all inserted documents.**

13. The City currently manually adjusts and re-prints bills for customers for various reasons, such as leaks and misread meters, the balance either online or over the phone must reflect this new amount the next day.

**The daily update balance file the city would submit would update all balance adjustments.**

14. Please provide details about the following:

- A. Quality control procedures to ensure bills are presented and balances are correct.

**The city reviews and approves all pdf images of bills prior to approval to “posting” and printing to mail. The balances are updated from the files generated by the city uploaded either via our BDS Admin site or the SFTP directory. The city staff can visually check any account balance to insure that the amount posted is correct.**

- B. Ability to provide customer support during the hours of 8am to 5pm Pacific Time

**BDS normal business hours are 8am to 6pm MTD, or 7am to 5 pm Pacific Time. Key personnel are available by email after hours.**

- D. Procedures for ensuring that the file transmissions are completed successfully and procedures for correcting issues.

**As part of the quality control, for every file received, an automatic email is generated to the client. First that we received the file and the second that we processed X number of records. If for any reason these totals do not agree with what the city intended to send, BDS will clear out the area and be ready to accept a replacement file.**

15. The vendor must accept at a minimum Debit cards and payments from Checking or Savings accounts, Visa and MasterCard credit cards, and if possible, Discover and American Express credit cards. Payments online or over the phone, to the extent possible, need to be approved or rejected right away. Credit and Debit Cards should be immediately verified, checking and savings account may be only verified by routing number.

**BDS has in place the ability to accept all 4 of the major credit card providers. Credit / debit card payments are confirmed in real time either as successful or declined. Those funds will be deposited. E check for checking or savings accounts can be validated only to the routing number, and can be declined after the transaction. This typically occurs within in 2 business days, however it can take longer.**

16. Returned payments would need to be processed and available as soon as possible. Notification to both the customer and the City would need to be made advising of a returned payment. The Vendor's system should be able to allow the City to block payment types individually on each customer's account. For example, the City would be able to block checking and savings account payments but leave credit and debit card payments available.

**Returned payment notification is sent to the city and BDS by the processor as soon as the issuing financial company has rejected the transaction and funds are normally pulled next day from the city account.**

**BDS has in place a procedure for our clients to block payment for all or just e check transactions. The city would generate a list of account numbers and the method that they want blocked. BDS would in real time flag those account so that error messages would be displaced or heard in the event that an attempted payment was made. Those settings would be in place until such time as the city sends a new file. At that time all existing flags would be cleared and only those in the new file would be blocked.**

## **TECHNICAL REQUIREMENTS**

1. **Online**
  - A. Online Access must be available through computer, tablet and smartphone.  
**Any device that can access the internet can access the BDS payment site,**



- B. The vendor has the ability to notify City Customers via email, text and phone calls.  
**Yes, with additional programming for text messages**
- C. And the vendor has the ability to let customers set up auto payments via credit or debit cards, checking or savings account. Once a customer has finished setting up the auto pay, the confirmation will be displayed and, at minimum, an email will be sent stating when the autopay will start.  
**BDS has in place all of the above and automatic email confirmation and notifications. See previous notes on checking / savings for automated payment disclaimer**
- D. Ability to provide email and text notifications of new bills.  
**Yes, with additional programming for text messages**
- E. Vendor provides automatic calling for impending Disconnection Notice.  
**BDS has this service in place.**
- F. The City should be able to verify online population of customer bills, have the ability to view real time payments and be able to make payments on customer's behalf from an authorized web site for City employees only.  
**BDS has this service in place.**

## 2. Reporting

- A. File Confirmation Report – Confirm receipt of bill print files and loading of bills online.  
**BDS has this service in place.**
- B. Report showing payments made for the time frame of 3:00pm to 3:00pm known as the customer activity report, along with the posting file which is compatible with our Munis system to be able to upload the payments to each customer's account.  
**BDS has this service in place.**
- C. Online report that shows all the customers texted, emailed and called on Friday's for shut off calls and if the call was successfully connected and duration of the call. Online report show email and text notifications were sent out for new bills and impending disconnection messaging.  
**Yes, with additional programming for text messages**

## 3. Security

- A. The Vendor/Contractor must provide necessary security to protect the City's (and utility customers') data from unauthorized access. Please provide details about the security measures that are in place. Include procedures for ensuring that only authorized persons are able to access any data involving customer accounts,

payment information, email addresses, phone numbers and any other red flag data.

**BDS provides a secure web site for the city staff to log in with username and passwords. Separate users can be set with selective access to data as directed by the city.**

**Any consumer can log in to the express pay side with the customer account and second validation, but the only information available would be the amount due on the account, no billing information, service address etc. is available.**

- B. Describe in detail how security is handled for information shared between the Vendor/Contractor and the City via email or online and compliance with Red Flag procedures. (Red Flag procedures must comply with Federal and State law as well as City policy.)

**All data files, reports and customer information is only available to city staff by access to the secure BDS Admin site which requires a BDS customer code identifying the city, and password and security key displayed on the screen.**

**All emails between the city and BDS that contain any customer details can be sent encrypted via our via our email server and would require a user name and password established by the city staff to open, read or reply.**

- C. The Vendor/Contractor must allow site visits by City personnel.

**BDS would welcome visits by City personnel to any of our locations.**

- D. The Vendor/Contractor shall provide insurance coverages as set forth in the proposed contract.

**BDS would provide all insurance coverage requested that applies. Since BDS has no location or employees in the state of Washington, we would not be able to provide proof of coverage for Workmans Comp for that State.**

- E. Vendor/Contractor will be required to submit proof of a biannual independent financial audit throughout the life of the agreement.

**BDS will be happy to provide copies of our annual financial reports. We do not have independent audits of the financials, but do have a certified CPA provide all tax returns and assurances that we comply with accepted practices.**

**BDS does have independent audits for SSAE16 certifications for all of our locations, which covers, everything from HR to building security to all of the**

**servers meeting all security requirements. In addition we have independent vendors check our servers for PCI compliance for credit card security procedures.**

4. **Customer Support and Disaster Recovery**

- A. Customer Support to City – Vendor/Contractor shall provide:
1. Unlimited customer support during the hours of 8:00 am – 5:00 pm, Pacific Time - during normal business days.

**Yes CS team support is available from 8am to 5pm Pacific time.**

2. Procedures for after-hours support.

**City will have cell phone and email contact with key staff members.**

3. A list of company holidays.

**New Years Day, Memorial Day, 4th of July, Labor Day, Thanksgiving, Christmas Day**

4. Contact points for customer service.

B. Disaster Recovery

1. The Vendor/Contractor must have a backup and disaster recovery facility to process the City's online bills and payments if the main facility becomes inoperable. Facilities must be geographically diverse to protect against regional events. Please list your facility locations.
2. Provide a detailed summary of the Vendor/Contractor's disaster recovery plan.

**SEE ATTACHED Disaster Recovery**

6. **Exception Processing**

- A. The system should allow the ability for the City to cancel customer payments only made during the 3pm to 3pm time frame. This system should be web based through a secure log in and be integrated between the City and the Vendor/Contractor. The system should be business rules based.
- B. If any errors in processing occur, such as duplicate payments, wrong amounts displayed (online or over the phone), erroneous email communication, the Vendor will take immediate action to remedy the issue, including resending emails, canceling duplicate payments and ensuring customers will have money returned to their bank accounts or credit cards within 1 business day, if not sooner.

**The City will have a direct log in to the payment gateway to void any payments processed before the 3pm batch time, or they can notify the CS team and our staff will complete the Void and remove the payment from the import data. Because the Voids are not automatically sent back via the API,**

if the City completes a void they must email the CS team so that the payment can be removed from the import data.

**BDS has a duplicate payment error message that comes directly to our CS team if a payment is made via the same payment process to the same account for the same amount same day. The CS team will alert the City of the possible duplicate payment, once the City confirms that in fact it is a duplicate, the CS Team will void any duplicate payments and cc the city.**

**In the event that a refund is required or requested, depending on the time of day that the CS team is advised or if the City logs on directly to the gateway processor, the refund will be processed next business day. Neither BDS nor the gateway can guarantee that the bank / financial institution will fund it back to the customer account as soon as it is processed.**

## PAYMENT PROCESSING

The City requires the following services to be performed:

- A. Process customer payments via the web or phone daily and provide a posting report of all payments as soon as possible after 3pm, but no later than 3:30.

**BDS will process the batch at 3pm Pacific time, within minutes the import file with the payment details will be available via the SFTP site and on the BDS Admin Website.**

- B. Balance and deposit payments electronically into the City banking account and provide a copy of the deposit. Must be done within one (1) business day. This schedule must be contractually guaranteed.

**BDS has confirmed with the Merchant processor that all batches will be deposited next business day.**

- C. Ensure all payments are processed and either accepted or rejected when the customer submits their payment. Any rejected payments are noted as to why rejected and available for the City to view on a daily basis.

**All successful or declined payments are available for the City to view on the BDS Admin site, either by customer accounts or by payment type summary.**

**The reason for the declined will be what the gateway receives back from the customer's bank or financial institution, or with an error code designating that the data entered did not match the card on file, such as an incorrect zip or CVV code for the credit card entered.**

- D. Keep bill images and payment information accessible online for customers and the City for 24 months and then available through other means of retrieval, both for the Customer and the City.

**BDS currently archives all bill images, including inserts printed and mailed with bill, all payment history successful or declined for up to 24 months. The city can search by name or account number. These same images are available online if the customer creates a username and password. If the customer attached multiple accounts to the username all images will be available for all accounts including payment transactions both successful and non-successful.**

- E. Any returned payments will be called out with both the City and Customer being notified of the returned payment.

## **INVOICING OF SERVICES**

The vendor will invoice the City monthly for charges due for the previous month. The invoice should detail the charges incurred, including credit card fees, debit card fees, checking / savings account fees, fees for using the online system, return fees and any other fees broken out and detailed. The invoice will be paid via check from the City and due 30 days after the date of the invoice. **The City does qualify for a lower utility provider rate on merchant fees.**

## **GENERAL REQUIREMENTS**

Proposals should be as thorough and detailed as possible so that the City may properly evaluate the capabilities of respective Vendor/Contractors to provide the required services.

Vendor/Contractors are required to submit the following items for a complete proposal:

1. A statement of the Vendor/Contractor's understanding of the work to be performed in accordance with the timeline.

## **SEE ATTACHED COVER LETTER**

2. Information as to the Vendor/Contractor's background and experience relative to the services being requested. Vendor/Contractors must have experience working with Munis UBCIS or similar software including real-time data exchange for online data and bill payments.

## **SEE ATTACHED BACKGROUND LETTER**

3. Detailed implementation plan that includes key tasks, milestones, and designated City and Vendor/Contractor responsibilities. Outline all training that will occur during the course of this project.

**Upon confirmation of reward of the RFP, BDS will provide the Merchant Processor application for debit/ credit card and ACH payments. This normally takes about 2 weeks from application to merchant account setup.**

**BDS CS team will assign a dedicated member of the CS team who will work with the city from beginning to go live including:**

**To design the “Branding” of the online payment portal and any customizing of the messages or customer login specifications, including “help” images for the customers.**

**BDS has already put in place the ability to hold three identifiers for each account, customer number, account number and bill number from the print & Mail files that we currently receive.**

**BDS will assign a dedicated toll free phone number for the IVR payment portal and the CS team will work with the city to customize the message that the customers hear to initiate the payments.**

**BDS will work with the city to format the import file to be uploaded to the existing sftp directory the same as we do for the lockbox service.**

**Upon receipt of the merchant account from the processor, BDS will run test payments with all of the payment portals, online, OTC and IVR, generate test import data and reporting.**

**Final Training with the City staff:**

**The dedicated CS team member will work with the city staff via a “go to meeting” so that anyone can join the training sessions. We will walk the city staff thru each payment process, what the customers will see, what the BDS Admin site will have for searches, reporting etc. and provide pdf instructions with screen shots for all services and reporting.**

**The CS team will be available for any ongoing questions, training new staff members or just refresher courses upon request.**

**Turnaround time from signature to go live is normally 4 to 6 weeks depending on customization requested and returns communication from the city.**

4. Information concerning on-going support that will be provided explaining the security around customer information also including red-flag considerations.

**BDS PCI compliance is renewed quarterly by an outside vendor to audit our server security, see latest Compliance Certificate.**

**See attached Red Flag policy and the attached SSAE audit completed in 2014.**

**Valli Information Systems, (dba Billing documents Specialists) at our Corporate level is in the process of completing the SSAE16 audit for 2016 for all of our locations, Idaho, New Mexico and Alaska.**

5. Vendor/Contractor's project pricing and preferred payment schedule.

**SEE ATTACHED PRICING SHEET**

6. Listing of five (5) clients who may be contacted as reference, for whom similar services have been provided. Include client names, addresses, emails and telephone numbers.

**See attached reference list.**

7. Also provide a list of any customer who stopped service prior to the original contract expiration date in the last 10 years, and the reason for the termination.

**NONE**

7. Please provide a list of at least two (2) customers who did not renew their contract after the expiration.

**City of Twin Falls, Idaho, chose to use the integrated services of the software provider, SpringBrook Software.**

**Bill Baxter, CPA  
Finance Accountant/Utility Billing Supervisor  
City of Twin Falls  
(208) 735-7264  
bbaxter@tffd.org**

**Mt Olympus Improvement District, SLC, UT also chose to use the integrated services of their software provider, Caselle. BDS still prints and mails their bills.**

**Stephen Rohwer, Controller  
Mt Olympus Imp Dist.  
801-262-2904, ext 106  
rohwers@mtoid.ort**

**BDS has kept an excellent working relationship with both of these accounts, feel free to contact them:**

8. Any other special experience and qualifications relative to this project.

**BDS started offering payments services to our utility clients in 2005 as part of our print & mail services. Our payment solutions have been designed to meet utility payment requirements, reporting and importing data. The BDS customer service is rated excellent by our clients, we are large enough to have programming abilities to customize and small enough to be responsive to our clients.**

9. Be able to comply with the Professional Services Agreement included in this RFP (sample at the end of this document).

**BDS has reviewed and agrees to and can comply with the Professional Services Agreement included in the RFP.**



## Valli Information Systems, Inc. Disaster Recovery 2016

### Step One: Disaster Avoidance

The first step in our disaster recovery plan is Disaster Avoidance. We do as much as we can to avoid a disaster from happening in the first place so that we do not have to enact our disaster recovery plan. There are few instances that are unavoidable and will force us to begin our disaster recovery plan, but there are many instances that by careful planning and investments, we can avoid a disaster from occurring. There are bound to be minor instances that disrupt the production workflow because our business depends on automated machines, humans, and computer systems, but we have attempted to make sure these minor instances don't result in a major disaster. Below are several of the steps we have carefully thought out and implemented:

1. **Operate under capacity:** The first step is that we operate both of our printing and mailing facilities under capacity. This ensures that each facility can handle minor issues such as machine downtime or employee absence.
2. **Duplication of all critical equipment:** The second step that we have taken to avoiding a major disaster is we have made the investments necessary to duplicate all critical equipment. We have multiple printers as well as multiple inserters to make sure that if one or two machines happen to be down, we can still continue to print, insert, and mail the time sensitive data.
3. **Multiple internet lines:** The next step we have taken is that we have duplicate internet lines from two separate vendors coming into our facility from different companies. This way if one internet line fails, we can quickly switch over to the second internet line and avoid a disruption in service.
4. **RAID, Server Sync, and tape backup:** We are fully leveraging a combination of these methods to ensure real-time accuracy, redundancy and disaster avoidance of our data center. RAID hard drives ensure that if a hard-drive fails, no interruption will occur as the other hard-drives will recover the data and continue in production. Our IT staff will be notified and can hot swap a new hard drive in place of the failed disk. Production servers are also synced in real-time. This ensures that if one server fails, the backup production server can take over and has the most recent data. All servers also have a nightly tape backup and the tapes are stored in a fire-proof safe and regularly taken off-site.
5. **Automated System Alerts:** We ensure that all systems are automatically monitored and alerts will be emailed to multiple employees. All of these employees can receive these alerts on their phone and can respond 24 hours a day to ensure systems stay up. These employees also have remote access to the data center and can monitor or fix issues without having to physically be at the datacenter.

6. **Cross Training and Documentation:** Employees are cross-trained and documentation is in place so that production and processes can continue in the event of missed work.
7. **Disaster Preparedness:** In the event of severe labor disruptions or physical premises become incapable of production due to external causes, we will utilize our Disaster Recovery site to continue operations.

## Step two: Disaster Recovery

We understand the importance of business continuity. As client needs and expectations have evolved, so has our evolution of our disaster Recovery Plan. We eventually saw the need to have a separate out of state disaster recovery facility. In January 2012, we purchased an existing printing and mailing facility and have since made it our disaster recovery facility.

Hundreds of clients depend on our platforms and staff to provide business critical services. Our excellent client retention track record speaks to our system reliability and high-quality processing. While we have never had to implement our disaster recovery plan in a live environment, we place great importance on maintaining and testing a successful disaster recovery strategy. Our knowledge of a strong disaster recovery strategy comes from testing, consultation with IT experts, and from years of research and experience.

We are confident that we have the necessary measures in place to recover from a range of large-scale operation disruptions. With our investment of an out of state disaster recovery facility, our customers can be confident that their time-critical data will be printed and mailed in a timely manner.

### **Facilities:**

#### Primary Production Facility:

Our corporate offices and main production facility and data center is located at 915 Main St. in Caldwell, ID.

#### Disaster Recovery Facility #1

Our disaster Recovery facility is a 24,000 sq. ft. facility located at 165 E 56<sup>th</sup> Ave. in Anchorage, AK.

#### Disaster Recovery Facility #2

Located at 4100 Hawkins St. NE Suite B Albuquerque, NM 87109

### **Labor**

Our employees are cross-trained and can manage tasks that span the entire production process. At our current size and capacity, operations can run normally with the absence of key personnel with no effect on production.

### **Materials, Laser Printing, Mail Inserting**

- Standard double window envelopes are stored at each of our facilities
- Should a customer elect to use custom envelopes, they have the option to pay for an emergency supply to be kept in inventory at the disaster recovery location.
- Blank white forms with a perforation are stored at each facility
- Should a customer elect to use custom forms, they have the option to pay for an emergency supply to be kept in inventory at the disaster recovery location. The custom pre-printed forms can also be laser printed in grayscale onto white paper if the custom forms are not available.

- Both facilities have a full color production laser printer as well as multiple production monochrome laser printers.
- Intelligent mail inserters are actively in use in both facilities.
- Each facility uses multiple printers and inserters, each of which operates independently of the others in case of equipment maintenance or downtime.
- Our internal processes allow us to redirect individual jobs on the fly to other facilities if necessary.

#### **Facility Fail-Over and Restoration**

Should one of our facilities become inoperable due to a fire, natural disaster, etc, then facility fail-over measures will be used to produce the mail at the other facilities. Documents will be able to be printed and mailed at either of our locations. If facility fail-over is enacted, and the fix is not going to happen soon, then available labor resources will travel to the other facilities to help with the disaster recovery efforts. Also, if facility fail-over is enacted, then restoration of the affected facility will begin as soon as possible. Both facilities have fire and theft insurance. All critical staff have remote login capabilities and continue to work when systems have been restored.

#### **Testing and Documentation**

Our disaster recovery procedures are continually improved. Documentation is constantly updated as necessitated by new requirements or changes to internal procedure or systems engineering. We currently process on a daily/monthly basis certain sites at the other location so that we know that we have everything in place to operate in case we have to implement the disaster recovery plan. An example would be that we do the pre-processing for the Alaska Federal Court System at our Caldwell facility and then have it printed at the Anchorage facility. This way we are always testing the equipment necessary to implement the plan.



Prepared By: Brad Hennessy  
 (866) 701-4700 ext:  
 8-Aug-16

## Consultative pricing review

Prepared especially for:  
 City of Marysville, WA

### WE AT GRAVITY PAYMENTS ARE COMMITTED TO PROVIDING



**the best service**

Serving you is our top priority. That's why our customers are with us over **5 TIMES LONGER** than industry average.



**transparency**

No hidden fees or surprises. We want you to **understand** every detail of your statement.



**simplicity**

We can **integrate quickly and seamlessly** with your current point-of-sale system, or **recommend new** options.



**support**

We are here when you need us. 24 Hours a day. 7 Days a week.



Statement Fee	\$0.00
Chargeback Fee	\$25.00
<b>Interchange and Fees</b>	
Discount Rate	0.15%
Avg. Interchange	0.52%
Transaction Fee	\$0.10
Batch Fee	\$0.00

**Monthly Est. Cost: \$6,084.08**

*Projected fees are based on:*

Monthly V/MC volume of: \$848,937.00

Average ticket of: \$214.27

"We strive to provide as much value to customers as possible, while charging them as little as possible, and still survive as a business."

-Dan Price, CEO & Founder of Gravity Payments



[www.gravitypayments.com](http://www.gravitypayments.com)



915 Main Street, Suite 1000 Caldwell, Idaho 83605  
800.627.3283 • f 208.459.3680 • www.billingdoc.com

## Identity Theft Prevention Program For Valli Information Systems, Inc. & Billing Document Specialists

Part I	Reasons that our companies are at low risk for identity theft
Part II	Potential red Flag Identification
Part III	Red Flag Detection
Part IV	Red Flag Response
Part V	Program Administration

### Part I Reasons that our companies are at low risk for identity theft

Valli Information Systems, Inc. dba Billing Document Specialists has been in business since 1983 with the same management and ownership in place throughout its existence. By dealing with our clients on a personal basis and handling any data sent to us or accessed through our web site with the highest degree of security, we have never experienced an incident of identity theft.

Data is encrypted when submitted through our secure web site, which is PCI compliant, blocking unauthorized access to any client database. Access of client information through the web site is password protected and information access can be permitted at various levels with limits set for each level by the client. Should unauthorized access be detected, an intrusion log will be created and sent to our two programmers for research and appropriate action and follow up.

### Part II Potential Red Flag Identification

- A. Notice for a customer, a victim of identity theft, a law enforcement agency or someone else that an account has been opened or used fraudulently.
- B. Statements or city utility bills being sent to an incorrect address.
- C. Potential hiring of a person giving a false identity or inaccurate background information.

### Part III Red Flag Detection

- A. All statements and billing are run through an NCOA database, which checks the address submitted to us by our client, against current address changes submitted to the USPS by individuals or businesses.
- B. Criminal and Social Security background checks on potential employees are processed through ABSO. Any discrepancies noted are sent to us immediately from ABSO to be handled appropriately.

### Part IV Red Flag Response

- A. Any potential Red Flag, HIPAA or HITECH violation detected on a clients' behalf will result in immediate notification to the clients' designated contact for appropriate action.
- B. A report from the NCOA database is sent to the client giving them to opportunity to change the address in their own database or let us know that they do not wish the address to be changed by "opting out".

- C. If a background check on a potential employee identifies any discrepancy in a ss#, they will be notified and cannot be hired until the situation has been corrected with the Social Security Administration.

Part V      Program Administration

- A. Weekly meetings are held with each department and all personnel within each week to discuss changes and concerns regarding Red Flag, HIPAA and HITECH to maintain understanding and compliance.
- B. We will continue to run Social Security and Criminal background checks on all employees to assure that all personnel remain committed to all issues related to compliance within our industry.
- C. We will continue to maintain network safeguards that assure secure submission of data files and secure web access.
- D. When changes are made to compliance-related services, we will continue to apprise all necessary personnel of those changes to assure continued compliance.

Our program has been approved by Robert O. Jenkins, President and Owen L. Edwards, Vice President of Valli Information Systems, Inc.

The program administrator is Owen L. Edwards.

We do not use outside service providers or sub-contractors in connection with accounts covered under the Red Flags Rule.

**Valli Information Systems, Inc**  
**Billing Document Specialists**  
**915 Main Street, Suite 1000, Caldwell, ID 83605**  
**Tel: 208.459.3611 TollFree: 800.627.32283 Fax: 208.459.3680**  
[www.valli.com](http://www.valli.com)   [www.billingdoc.com](http://www.billingdoc.com)



915 Main Street, Suite 1000 Caldwell, Idaho 83605  
 800.627.3283 • f 208.459.3680 • www.billingdoc.com

securityMETRICS®



## Certificate of PCI DSS Merchant Compliance

### Payment Card Industry Data Security Standards Validation

Based on the information provided by the merchant listed below involving its security policies, procedures, and regulations, SecurityMetrics has found the merchant to be compliant with the Payment Card Industry Data Security Standards (PCI DSS), endorsed by Visa, MasterCard, American Express, Discover, and JCB card brands.

## Valli Information Systems, Inc.

Last Passing Scan Date: 17 Jun 2016

Self Assessment Questionnaire (SAQ D 3.2) Compliant Date: 23 Aug 2017

SecurityMetrics recognizes the merchant for its efforts to reduce credit card theft and fraud. By achieving PCI certification, this merchant is maintaining rigorous data security standards to ensure that its customer's credit card information remains safe and secure. In order to maintain PCI DSS compliance the merchant's self-assessment questionnaire must be passed every 12 months and any scans, if applicable, must be passed every 3 months.

[www.securitymetrics.com](http://www.securitymetrics.com)

[www.pcisecuritystandards.org](http://www.pcisecuritystandards.org)

Ian Taylor

Director of Security Fulfillment

Gravity Payments Merchant fees/ estimated invoice

Schedule of Fees	Estimated Monthly Count	Estimated Monthly Dollar Volume	Average Interchange Costs	Discount Rate	Transaction Fee	Merchant Fee Percentage	Total Fees Charged to City
<b>Online, Scheduled, Phone, and CSR made payments per month:</b>							
April Mastercard Debit	926	238,413	0.0052	0.0015	0.1		
April Mastercard Credit	331	85,221	1239.75	357.62	92.60	0.71%	1689.97
April Visa Debit	1,398	359,937	443.15	127.83	33.10	0.71%	604.08
April Visa Credit	1395	359,165	1871.67	539.91	139.80	0.71%	2551.38
April Discover	38	9,784	1867.66	538.75	139.50	0.71%	2545.91
April Savings Account	4	203	50.88	14.68	3.80	0.71%	69.35
April Checking Account	745	149,153	1.06	0.30	0.40	0.87%	1.76
			775.60	223.73	74.50	0.72%	1073.83

Item 9 - 48

NMI Gateway Monthly Cost 10.00  
 NMI Gateway Transaction Fees (\$.10 per transaction) 458.10

Total estimated invoice to City 9004.37



Screen shot of import files available on the Admin Site with Text file by date /type of payment

**NEW OTC Payment Imports** [Refresh](#)

Past 15 (click to view)

08/26/2016 17:12:26 => [Import File](#) [Text File](#)  
**Imported:** 2016-08-26 17:17:24 - KARIE  
 08/25/2016 23:49:02 => [Import File](#) [Text File](#)  
**Imported:** 2016-08-26 08:03:00 - KARIE

**IVR Payment Imports** [Refresh](#)

Past 15 (click to view)

Current => [Text File](#) View and Post Current => [Here](#)  
 08/27/2016 23:49:02 => [Import File](#) [Text File](#) [Fee](#)  
 08/26/2016 17:12:29 => [Import File](#) [Text File](#)  
**Imported:** 2016-08-26 17:16:05 - KARIE  
 08/26/2016 08:16:42 => [Import File](#) [Text File](#)  
**Imported:** 2016-08-26 08:19:52 - KARIE  
 08/25/2016 23:49:02 => [Import File](#) [Text File](#)  
**Imported:** 2016-08-26 08:04:09 - KARIE  
 08/25/2016 08:12:16 => [Import File](#) [Text File](#)  
**Imported:** 2016-08-25 08:15:30 - KARIE  
 08/24/2016 23:49:02 => [Import File](#) [Text File](#)  
**Imported:** 2016-08-25 08:08:49 - KARIE  
 08/24/2016 08:13:07 => [Import File](#) [Text File](#)  
**Imported:** 2016-08-24 08:17:58 - KARIE  
 08/23/2016 23:49:02 => [Import File](#) [Text File](#)  
**Imported:** 2016-08-24 08:11:32 - KARIE  
 08/23/2016 16:08:00 => [Import File](#) [Text File](#)  
**Imported:** 2016-08-23 16:09:04 - MARIA  
 08/22/2016 23:49:01 => [Import File](#) [Text File](#)  
**Imported:** 2016-08-23 07:57:50 - MARIA  
 08/22/2016 08:53:54 => [Import File](#) [Text File](#)  
**Imported:** 2016-08-22 09:38:26 - KARIE  
 08/21/2016 23:49:02 => [Import File](#) [Text File](#)  
**Imported:** 2016-08-22 09:38:03 - KARIE  
 08/20/2016 23:49:01 => [Import File](#) [Text File](#)  
**Imported:** 2016-08-22 09:37:30 - KARIE  
 08/19/2016 23:49:02 => [Import File](#) [Text File](#)  
**Imported:** 2016-08-22 09:37:05 - KARIE

**\*NEW Online Site Payment Imports** [Refresh](#)

Past 15 (click to view)

08/26/2016 17:12:35 => [Import File](#) [Text File](#)  
**Imported:** 2016-08-26 17:14:29 - KARIE  
 08/26/2016 08:16:47 => [Import File](#) [Text File](#)  
**Imported:** 2016-08-26 08:20:57 - KARIE  
 08/25/2016 23:49:02 => [Import File](#) [Text File](#)  
**Imported:** 2016-08-26 08:05:13 - KARIE

Created	Posted	Account	Amount	Transaction Id	Payment Type	Bill Pay Detail	Processor
8/26/2016 0:17	8/26/2016 8:16	4501040502	59.38	8612673829	IVR		
8/26/2016 0:46	8/26/2016 8:16	392100803	65.32	8612681477	ONLINE		
8/26/2016 1:49	8/26/2016 8:16	3737327603	79.60	8612706858	ONLINE		
8/26/2016 3:12	8/26/2016 8:16	913110903	144.67	8612745256	ONLINE		
8/26/2016 3:41	8/26/2016 8:16	392040402	46.29	8612754071	ONLINE		
8/26/2016 4:51	8/26/2016 8:16	1447040703	88.16	8612782506	ONLINE		
8/26/2016 4:53	8/26/2016 8:16	1313609201	135.10	8612783161	ONLINE		
8/26/2016 5:28	8/26/2016 8:16	2301034003	111.11	8612804589	IVR		
8/26/2016 5:53	8/26/2016 8:16	606999403	82.05	8612816608	ONLINE		
8/26/2016 6:09	8/26/2016 8:16	2301121004	141.14	8612827584	ONLINE		
8/26/2016 6:19	8/26/2016 8:16	2250454602	73.12	8612835958	ONLINE		
8/26/2016 6:21	8/26/2016 8:16	2403005203	95.00	8612838218	ONLINE		
8/26/2016 6:25	8/26/2016 8:16	1010205804	52.64	8612841493	ONLINE		
8/26/2016 6:33	8/26/2016 8:16	318081705	59.94	8612847738	ONLINE		
8/26/2016 6:37	8/26/2016 8:16	1734281002	156.01	8612850939	ONLINE		
8/26/2016 6:44	8/26/2016 8:16	2302284003	97.44	8612857103	ONLINE		
8/26/2016 6:44	8/26/2016 8:16	3668022602	63.32	8612857449	ONLINE		
8/26/2016 7:03	8/26/2016 8:16	1313901403	82.05	8612876795	ONLINE		
8/26/2016 7:07	8/26/2016 8:16	915430302	81.00	8612883063	ONLINE		
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# SALES ORDER



915 Main Street, Suite 1000  
 Caldwell ID 83605  
 Phone: 208.459.3611 Fax: 208.459.3680  
 www.valli.com

**Bill To**

City of Marysville  
 1049 State Ave  
 Marysville, WA 98270-4234

**INVOICE #** 30357  
**DATE** 8/29/2016

Rep	P.O. No.	Terms	Due Date
		Net 30	9/28/2016

Quantity	Description	Rate	Class	Job Date	Job #	Amount
700	Phone/ Text Messages	0.10	BDS	09/01/2016	9999	70.00
13,000	E Statements	0.15	BDS	09/01/2016	9999	1,950.00
5,000	email / text message	0.05	BDS	09/01/2016	9999	250.00
4,837	monthly maintenance	0.05	BDS	09/01/2016	9999	241.85
	per successful payment					
250	IVR Successful payment fee ( this cost can be collected from the customer)	1.00	BDS	09/01/2016	9999	250.00

**Subtotal** \$2,761.85  
**Sales Tax (9.1%)** \$0.00  
**Total** \$2,761.85

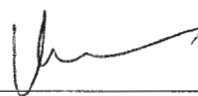


# *Index #10*

## CITY OF MARYSVILLE AGENDA BILL

### EXECUTIVE SUMMARY FOR ACTION

**CITY COUNCIL MEETING DATE:** March 6, 2017

<b>AGENDA ITEM:</b>	
Local Agency State Funding Supplemental Agreement No. 2 with WSDOT for Grove Street Pedestrian and Bicycle Improvements (State Ave to Cedar Ave)	
<b>PREPARED BY:</b>	<b>DIRECTOR APPROVAL:</b>
Jeff Laycock, City Engineer	
<b>DEPARTMENT:</b>	
Engineering	
<b>ATTACHMENTS:</b>	
Local Agency Funding Agreement Supplemental No. 2	
<b>BUDGET CODE:</b>	<b>AMOUNT:</b>
30500030.563000, M1505	N/A
<b>SUMMARY:</b>	

The City was awarded \$276,500 in state funds under the WSDOT Pedestrian and Bicycle Safety Program for the Grove Street Pedestrian and Bicycle Improvements project from State Avenue to Cedar Avenue. The project has since been completed and was accepted by Council on January 23, 2017.

Staff have worked with the TIB (Transportation Improvement Board) and WSDOT to reconcile final grant reimbursements. Due to an overall lower project cost than anticipated and the City's match requirements towards the grant, a supplemental agreement with WSDOT is required. The City will be able to recover \$260,962 from WSDOT towards the project.

The following is a breakdown of the final project costs and reimbursement.

Total Project Cost:	\$432,462
TIB:	-\$121,770
WSDOT:	-\$260,962

Total Project Cost to the City (TBD Funds):	\$49,730
---	----------

The City's match was funded by the Transportation Benefit District. This represents 11.5% of the total project cost. A majority of the City's cost was staff time to design and manage construction of the project.

**RECOMMENDED ACTION:** Staff recommends that Council authorize the Mayor to sign and execute the Local Agency Supplemental Funding Agreement No. 2 with WSDOT for the Grove Street Pedestrian and Bicycle Improvements (State Ave to Cedar Ave).



## Supplement - Local Programs State Funding Agreement

Agency City of Marysville		Supplement Number
Project Number HLP-PB15(005)	Agreement Number LA8785	2

This supplemental agreement is made and entered into  
All provisions in the AGREEMENT identified above remain in effect except as expressly modified by this supplement.  
The changes to the agreement are described as follows:

Project Description  No Change

Name Grove Street Pedestrian and Bicycle Improvements

Location Grove Street from Cedar Avenue to State Avenue

Description of Work  No Change

**Reason for Supplement**

The agreement is being supplemented to move RW funds to CN.

Type of Work	Estimate of Funding				
	(1) Previous Agreement/Suppl.	(2) Supplement	(3) Estimated Total Project Funds	(4) Estimated Agency Funds	(5) Estimated State Funds
PE a. Agency	32000	-23995	8005	8005	0
b. Other					
c. Other					
d. State					
e. Total PE Cost Estimate (a+b+c+d)	\$ 32,000.00	-\$ 23,995.00	\$ 8,005.00	\$ 8,005.00	\$ 0.00
RW f. Agency	77000	-36630	40370		40370
g. Other					
h. Other					
i. State					
j. Total R/W Cost Estimate (f+g+h+i)	\$ 77,000.00	-\$ 36,630.00	\$ 40,370.00	\$ 0.00	\$ 40,370.00
CN k. Contract	199500	21092	220592		220592
l. Other TIB	139500	-17730	121770	121770	
m. Other Agency non-part.	29375	-10150	19225	19225	
n. Other					
o. Agency	22500	0	22500	22500	
p. State					
q. Total CN Cost Estimate (k+l+m+n+o+p)	\$ 390,875.00	-\$ 6,788.00	\$ 384,087.00	\$ 163,495.00	\$ 220,592.00
r. Total Project Cost Estimate (e+j+q)	\$ 499,875.00	-\$ 67,413.00	\$ 432,462.00	\$ 171,500.00	\$ 260,962.00

**AGENCY**

**STATE**

BY: \_\_\_\_\_

BY: \_\_\_\_\_  
Director, Local Programs

Title: Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_  
Item 10 - 2

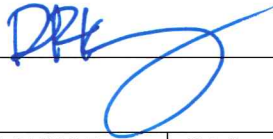
# *Index #11*



**CITY OF MARYSVILLE**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: March 6, 2017**

AGENDA ITEM: PA16-002 – 2016 Code Clean-up Amendments	AGENDA SECTION: New Business	
PREPARED BY: Angela Gemmer, Senior Planner	APPROVED BY: 	
ATTACHMENTS: 1. Memo to City Council dated 2/22/17 2. PC Recommendation dated 2/14/17 3. PC Minutes dated 11/22/16, 1/10/17, 1/24/17 and 2/14/17 4. Adopting Ordinance 5. Correspondence on flagpole amendments per citizen's request	MAYOR	CAO
	AMOUNT:	
BUDGET CODE:		

**DESCRIPTION:**

The Planning Commission (PC) held a public hearing on February 14, 2017 to review proposed amendments to Marysville Municipal Code Title 22, *Unified Development Code*. The proposed amendments are items observed over the last year that need to be updated in order to improve code clarity and overall review process, and include, but are not limited to, the following development regulations: flags and flagpoles, single family/duplex/townhouse parking requirement clarifications, duplex dimensional standards, adding and amending zoning definitions (i.e. dwelling, sign, flagpole, and social services), shipping containers standards (primarily in residential zones), manufactured homes age administrative variance, and residential accessory structure clarifications.

The PC received testimony from staff and other interested parties at the public hearing following public notice. The PC made a motion to recommend the proposed amendments to City Council for adoption by ordinance.

RECOMMENDED ACTION: The 2016 Code Clean-up Amendments will be brought to City Council for formal action on March 27, 2017.
COUNCIL ACTION:



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

**MEMORANDUM**

DATE: February 24, 2017  
 TO: City Council  
 FROM: Angela Gemmer, Senior Planner  
 RE: 2016 Code Clean-Up Amendments  
 CC: Dave Koenig, Community Development Director  
 Chris Holland, Planning Manager

The following is a summary of proposed amendments to Title 22, *Unified Development Code* of the Marysville Municipal Code. The proposed code amendments are items observed over the last year that need to be updated in order to improve clarity and overall review process and include, but are not limited to, the following:

- Addition of, and amendments to, flag and flagpole provisions in order to:
  - Define the term ‘flagpole’;
  - Provide exceptions to the generally applicable height and setbacks standards for flagpoles and similar uncovered accessory structures;
  - Eliminate an exemption provision in the sign code which pertains to flags; and
  - Amend the definition of ‘sign’ to simply state that flags are not included in the ‘sign’ definition.
- Revision to the language regarding the minimum required parking spaces for single family residences, duplexes, townhouses, and mobiles homes to make it clear that three parking spaces are required per dwelling unit rather than two;
- Revision to footnotes in the residential density and dimensional standards table that pertain to duplexes in order to:
  - Clarify that the 12,500 square foot minimum lot size applies to duplex lots in the R-4.5 zone, and that the 7,200 square foot minimum lot size applies to duplex lots in the R-6.5, R-8, WR-R-4-8 zones; and
  - Allow duplexes on individual lots in the R-12 through R-28 zones to utilize the less restrictive dimensional requirements of the R-8 zone.
- Addition of definitions for the terms ‘social services’ and ‘dwelling’;
- Inclusion of an administrative variance to the manufactured home age restrictions so that relief from the age restriction may be granted by the Community Development Director rather than the Hearing Examiner when site circumstances support such relief. The intent of this provision is to minimize applicant and staff time and financial expense for a relatively simple type of variance;
- Clarification of the Planned Residential Development (PRD) open space requirements;
- Inclusion of new standards to restrict shipping containers on residential lots to those lots that are over one acre in size, and to require screening for shipping containers in any zone in which they may be located (*commercial and industrial zones already require screening, but this provision makes it clearer*); and
- Addition of a footnote to the residential permitted uses matrices to clarify that residential accessory structures may only be established as dwellings if they meet the criteria for an accessory dwelling unit.



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

## PC Recommendation – Proposed 2016 Code Clean-Up Amendments

The Planning Commission (PC) of the City of Marysville, having held a public hearing on February 14, 2017 in review of NON-PROJECT action amendments of the Marysville Municipal Code, proposing amendments to Title 22, *Unified Development Code*, including, but not limited to, the following development regulations: flags and flagpoles regulations; SFR/duplex/townhouse minimum parking spaces; duplex dimensional standards; social services, dwelling, sign, and flagpole definitions; manufactured home age administrative deviation; shipping containers standards; residential accessory structures clarifications; and PRD open space clarifications. Having considered the exhibits and testimony presented, PC does hereby enter the following findings, conclusions and recommendation for consideration by the Marysville City Council:

### FINDINGS:

1. The Community Development Department held a public meeting to introduce the NON-PROJECT action Code Clean-Up Amendments to the community on November 22, 2016.
2. The proposal was submitted to the State of Washington Department of Commerce for 30-day expedited review on January 30, 2017, in accordance with RCW 36.70A.106.
3. The PC held public work sessions to review the NON-PROJECT action amendments proposing adoption of the NON-PROJECT action 2016 Code Clean-Up amendments as described above, on November 22, 2016, January 10, 2017, and January 24, 2017.
5. The PC held a duly-advertised public hearing on February 14, 2017 and received testimony from city staff and the public.
6. At the public hearing, the PC reviewed and considered the 2016 Code Clean-Up Amendments.

### CONCLUSION:

At the public hearing, held on February 14, 2017, the PC recommended **APPROVING** the 2016 Code Clean-Up Amendments.

### RECOMMENDATION:

Forwarded to City Council as a Recommendation of **APPROVAL** of the NON-PROJECT action known as 2016 Code Clean-Up Amendments, an amendment to the Marysville Municipal Code, primarily Title 22C, *Land Use Standards*, this **February 14, 2017**.

By: \_\_\_\_\_

Stephen Leifer, Planning Commission Chair

# PLANNING COMMISSION



# MINUTES

**November 22, 2016**

**7:00 p.m.**

**City Hall**

## **CALL TO ORDER**

Chair Leifer called the November 22, 2016 meeting to order at 7:00 p.m. noting the excused absence of Tom Thetford.

### Marysville

**Chairman:** Steve Leifer

**Commissioners:** Roger Hoen, Jerry Andes, Kay Smith, Kelly Richards, Brandon Whitaker

**Staff:** Community Development Director Dave Koenig, Senior Planner Angela Gemmer

**Absent:** Tom Thetford

## **APPROVAL OF MINUTES**

November 9, 2016

**Motion** made by Commissioner Richards, seconded by Commissioner Smith, to approve the November 9 Meeting Minutes as presented. **Motion** passed unanimously.

## **AUDIENCE PARTICIPATION**

Chair Leifer noted that there was no one present in the audience.

## **NEW BUSINESS**

### MMC Chapter 11.52 Commute Trip Reduction Update

Angela Gemmer explained that this is an update to Marysville's Commute Trip Reduction Ordinance. The object is to reduce single-occupant vehicle trips to reduce congestion and pollution. The State is the entity that has adopted this law, but the City

contracts with Community Transit (CT) to administer the program. CT would like to synchronize the ordinances between the various jurisdictions they coordinate with. This is basically reformatting what the City presently has. The main change is from annual reporting to quarterly reporting. Another change is to move from biennial surveys to a rideshareonline.com (RSO) system. Other changes involve elimination of several definitions that are no longer relevant to the program, modification to several definitions, inclusion of voluntary worksites in the ordinance, and changes in the names of different terms.

Commissioner Whitaker asked how many staff members are dedicated to administering this program. Ms. Gemmer replied it is just her. Commissioner Whitaker asked which site has more than 100 people showing up within three hours in the morning. Senior Planner Gemmer replied it is the Public Works and Community Development campus. Commissioner Whitaker asked if there are a lot of voluntary programs. Ms. Gemmer replied that there are not at this time, but there may be in the future.

Commissioner Hoen expressed a concern with the CT bus system. He noted that low income or no income people who are trying to get around the community can't get a transfer if they don't have an Orca card. This seems unfair to him. Senior Planner Gemmer stated they would pass that concern along to Community Transit.

Chair Leifer referred to the proposed format, page 9, where it talks about additional elements that can be implemented as needed. He asked how "as needed" would be determined. Senior Planner Gemmer explained that generally speaking if people are doing the things that are expected (obtaining training, notifying employees of their programs, and collecting data), but still aren't meeting the target it is acceptable since it is a program based on good faith effort. If someone is lacking progress they might be encouraged to take extra steps to adopt other techniques to improve progress.

Chair Leifer referred to page 11, D (2), and asked what "undue hardship" would be. Chair Leifer referred to the potential penalties and noted that a "good faith effort" and "undue hardship" appear to be somewhat subjective and could cause an issue in the future. Senior Planner Gemmer noted that the penalties language is part of the existing ordinance. Her experience is that they focus on positive solutions. She explained that the expectations for a good faith effort are fairly minimal and include six hours of training a year for the administrator, holding a transportation fair, completing surveys, and distributing information.

Commissioner Andes asked how many people in the Public Works building are currently carpooling. Senior Planner Gemmer replied that she is aware of only a couple. She noted that the flex work schedules contribute toward the reduction in trips. She commented that reducing trips is generally a challenge in North Snohomish County.

Chair Leifer asked for more information on the table on page 4 of the Plan. Senior Planner Gemmer replied this is an illustration of how the program has performed for 26,000 employees in eight South Snohomish County jurisdictions and the City of Bothell specifically. They are only identifying the non-drive alone trips. Chair Leifer noted that

this represents about 5% of people. Director Koenig commented that Community Transit has a large number of commuter vans. They are actually the second largest provider of ride sharing vans in the country. There are also businesses that have come up with their own solutions.

Chair Leifer then referred to the Barriers to Achieving Goal section at the bottom of page 9 and noted that one of the barriers is the availability of abundant free parking in the area. He then referred to page 11 on the sixth paragraph where it talks about Marysville's responsibility to make sure the CTR program is consistent with the Comprehensive Plan. He asked if they need to take a look at the Comprehensive Plan to see how it coincides with this comment about excess parking being a barrier to the program. Senior Planner Gemmer said she doesn't recall much in the Comprehensive Plan about parking as it relates to these goals. She thinks in general it is consistent with the goals of the CTR program. She noted she would take a closer look at this.

Commissioner Hoen commented that the State used to provide free bus passes for its employees. He asked if Marysville does this. Senior Planner Gemmer replied that there is currently a small monetary incentive, but she doesn't think anyone has taken advantage of that.

#### Code Amendments (Part 1)

Senior Planner Gemmer stated that this batch of code amendments is the first of several amendments that staff will be presenting. These are items staff has observed that are inconsistent with the code or that need to be amended to clarify code, or to streamline the process.

Amendment 1 – This provides clarification on parking expectations for single-family residences, duplexes, townhouses, and mobile homes.

Amendment 2 – This would clarify that the entity that grants licensure for radio frequency analysis is the Federal Communications Commission (FCC) and not the State of Washington. This would allow a broader group of engineers to submit those reports.

Chair Leifer asked if the FCC reviews all of the items. Senior Planner Gemmer stated that the City does the review. This would just clarify the credentials the engineer would need to do the analysis.

Amendment 3 - This would bring consistency between Permitted Uses matrices and the Density and Dimensional matrices for minimum lot sizes for duplexes in the Single Family, Medium Density Zone (R-4.5).

Chair Leifer referred to the Suggested Code Amendment on page 5 and asked if this means that they need to build to the maximum density. Senior Planner Gemmer replied that it does not. Some jurisdictions have a minimum and maximum, but Marysville does not. It would just afford a little more flexibility.

Amendment 4 – This is for single family and duplex uses that occur in multifamily zones. This would allow duplexes to benefit from using the lesser setbacks that a single family residence would use if it were built in a multifamily zone.

Chair Leifer asked if this was similar to LDMRs. Director Koenig explained that LDMRs were higher density single family units with reduced setbacks. Senior Planner Gemmer noted that there is one in Marysville that turned out pretty nice, but it has bigger setbacks than required.

Amendment 5 – This adds a new definition for *social services*.

Amendment 6 – This would allow administrative variances to the age requirements for manufactured homes. The City has issued a couple variances over the past couple years, and they had to go to the Hearing Examiner. This would minimize staff's and the applicant's time and reduce the expense of processing a variance. It would still uphold the expectation that someone in a standard subdivision would need to put in a newer home. The intent is to reduce hardship to people where it's not impacting neighbors negatively.

Chair Leifer commented that it seems very difficult to meet all the conditions on page 7 under item c. Senior Planner stated that the goal isn't to make the criteria easy to meet making these variances widely available, but rather to make it easier to obtain and process the variance if a property is eligible.

## CITY COUNCIL AGENDA ITEMS AND MINUTES

### ADJOURNMENT

**Motion** made by Commissioner Smith, seconded by Commissioner Richards, to adjourn the meeting at 8:00 p.m. **Motion** passed unanimously.

### NEXT MEETING:

December 13, 2016

  
 \_\_\_\_\_  
 Laurie Hugdahl, Recording Secretary

# PLANNING COMMISSION



# MINUTES

January 10, 2017

7:00 p.m.

City Hall

## CALL TO ORDER

Chair Leifer called the January 10, 2017 meeting to order at 7:00 p.m.

### Marysville

**Chairman:** Steve Leifer

**Commissioners:** Roger Hoen, Jerry Andes, Kay Smith, Kelly Richards, Brandon Whitaker

**Absent:** Commissioner Tom Thetford (excused)

**Staff:** Community Development Director Dave Koenig, Senior Planner Angela Gemmer, Senior Planner Cheryl Dungan, Project Engineer Ryan Morrison, Surface Water Specialist Mathew Eyer

## APPROVAL OF MINUTES

### December 13, 2016

Commissioner Richards noted he would be abstaining from the vote as he was not present at the December 13 meeting.

**Motion** made by Commissioner Hoen, seconded by Commissioner Andes, to approve the December 13, 2016 Meeting Minutes. **Motion** passed (5-0) with Commissioner Richards abstaining.

## AUDIENCE PARTICIPATION

Evan Kaiser, 2910 73<sup>rd</sup> Avenue NE, Marysville, WA, commented that when information is submitted to the Planning Commission all the pertinent documents should be submitted. He suggested that the Planning Commission conduct research on what other cities are doing when working on their codes. He asked if he could send emails to the



Planning Commission through Janis at the Planning Department and expect a reply in a reasonable time period. Chair Leifer replied that would be appropriate.

## **PUBLIC HEARING**

### **A. City of Marysville – Water System Plan**

Project Engineer Ryan Morrison made a PowerPoint presentation reviewing the Water System Plan Update.

Chair Leifer asked about adequate pressures for fire suppression equipment in the area north of 116<sup>th</sup> up to 152<sup>nd</sup> as referred to in his discussions with the fire marshal. His understanding is that there is still an issue with adequate pressure and fire flow. Project Engineer Morrison said he wasn't aware of any broad low pressure issues or fire flow issues in that area. Chair Leifer commented he heard there is a marginal amount of flow available. Project Engineer Morrison reviewed fire flow requirements and data and explained that the consultant highlighted deficiencies as part of the Water Plan but that area was not highlighted. Chair Leifer asked about the commercial industrial area. Project Engineer Morrison reviewed the commercial fire flow requirements. Chair Leifer summarized that the maximum they can get out of these is 2000 gpm, but the requirement is 2500 gpm. Project Engineer Morrison explained that the maximum is calculated per port, but it is expected that there will be multiple hydrants which makes it workable.

Commissioner Hoen expressed concern about involvement of water drawing agencies in the water system plan update. Project Engineer Morrison replied that all the surrounding jurisdictions as well as the Department of Health have copies of this Plan and are invited to review and comment. This is the same for other jurisdictions. They are also in communication with the Fire Department about the fire flow.

Commissioner Hoen asked about the status of the water lines in the City. Project Engineer Morrison replied that most of the water main is ductile iron, but some of it is asbestos cement or cast iron. Asbestos cement is the oldest portion. This is on a schedule for maintenance as part of the renewals and replacement. They are replaced depending on prioritization and budgeting. Commissioner Hoen asked if available water for the system was predicted to be adequate through 2036. Project Engineer Morrison affirmed that it is.

Commissioner Richards asked if the Sunnyside Well will relieve the city of the need for Everett water. Project Engineer Morrison replied that it will not, and the City will want to keep that intertie in place. Commissioner Richards suggested talking to Everett about stopping adding fluoride to the water.

The public hearing was opened at 7:20 for public testimony. Hearing no comments, the hearing was closed at 7:20 p.m.

Commissioner Hoen noted that there are several areas that are expanding in Lakewood. He asked if staff believes there is adequate water planned to get water to the new facilities. Project Engineer Morrison affirmed that there is.

**Motion** made by Commissioner Richards, seconded by Commissioner Smith, to forward this item to Council with a recommendation for approval. **Motion** passed unanimously (6-0).

#### B. City of Marysville – Surface Water Comprehensive Plan

Surface Water Specialist Matthew Eyer made a presentation reviewing the Surface Water Comprehensive Plan Update. He explained that there are 25 projects identified as needed in the future. Five major projects have been identified for the next six years: Historic Downtown Green Retrofit Study, Culvert Removal and Bridge Installation along Quilceda Creek at State Avenue, Water Quality Treatment Facility at Downtown Marina Outfall, Conveyance for Regional Pond 2, and Edgecomb Creek Regional Detention Facility. The simplified financial review showed that the 2% annual rate increase will cover the operating increase, but not the capital projects.

Commissioner Hoen asked if the impact fees are adequate. Senior Planner Gemmer stated that impact fees are not expected to cover all expenses. Other funding mechanisms help finance projects.

Chair Leifer asked about the area near 152<sup>nd</sup> near the Edgecomb detention pond. He asked if the total anticipated volume has taken into account the requirements for Low Impact Development and that a portion of the water will be going into the ground. Surface Water Specialist Matthew Eyer stated that would be taken into consideration going forward with any new pond. Staff hasn't looked into how a new pond would look under the new manual. As it currently stands, the pond is designed to take all the water from all the sites.

Chair Leifer asked about money for realignment of Edgecomb Creek. He asked if a route has been established. Surface Water Specialist Matthew Eyer clarified it was Hayho Creek which is the barrier, not Edgecomb. Edgecomb Creek has some theoretical language in the Comprehensive Plan about the potential realignment. Senior Planner Dungan explained that Otak developed a plan on possibilities for that. She explained that during the recession a lot of the properties went back to the banks. The City backed away from this due to lack of interest from the property owners and is no longer pursuing it at this time.

The public hearing was opened at 7:41 for public testimony. Hearing no comments, the hearing was closed at 7:41 p.m.

**Motion** made by Commissioner Andes, seconded by Commissioner Richards, to forward this item to Council with a recommendation for approval. **Motion** passed unanimously (6-0).

## NEW BUSINESS

### A. Code Amendment – Flagpoles

Senior Planner Gemmer reviewed the proposed amendments to how the City deals with flags and flagpoles. She reviewed background on this item and explained that the majority of Washington jurisdictions researched are silent on flagpole regulations with the exception of Spokane. Staff is proposing regulations adapted from Spokane's. She reviewed three different options for flagpole definitions. She also reviewed other proposed changes.

There were clarification questions regarding the language under 22C.010.220 Height-Exceptions to limits (3). Staff noted they would review the language for clarifications.

Commissioner Richards asked how tall a flagpole could be on top of his house. Director Koenig replied they would look into that, but currently it would be as high as the zone allows.

Commissioner Andes referred to the proposed language for setbacks and suggested they just keep it the same as the property setbacks. Senior Planner Gemmer indicated they could, but noted that some setbacks are much bigger, up to 20 feet. Commissioner Andes recommended keeping it the same as building setbacks to keep it simple.

Commissioner Hoen asked about vertical sail-type flags that he has seen around which are used for advertising. Senior Planner Gemmer replied that those are generally prohibited in the code and present an ongoing code enforcement issue. They are considered signs, not flags.

Chair Leifer referred to item 11 under 22C.160.180 Exemptions in the Sign Code and stated he would like to see preference given to the United States flag by giving it an additional height allowance above and beyond all others. Director Koenig commented that the intent is not to get into regulating college flags, 12<sup>th</sup> man flags, etc. The etiquette of flags requires that the US flag is to be flown on top above all others. Language relating to this can be added.

Commissioner Richards agreed with the standard regarding the US flag, but noted that people will use this as a statement. Senior Planner Gemmer suggested getting legal guidance on whether or not this is something that can be regulated.

### B. 2017-2022 - - Draft Capital Facilities Plan

Senior Planner Dungan introduced the Capital Facilities Plan for 2017-2022 as contained in the Planning Commission packet.

Commissioner Whitaker asked how the projects are prioritized. Senior Planner Dungan stated that there is a rating system within the City's database to help determine this. The plan is changed every two years in response to changes in these priorities.

Commissioner Whitaker asked what is behind the justification for moving forward with the project. Senior Planner Dungan replied that they are policies and goals that are outlined in the Comprehensive Plan and through the Growth Management Act. Commissioner Whitaker asked how estimates are made for construction of projects that are out in the future. Senior Planner Dungan replied that they are based on best case estimates.

Commissioner Richards noted that some of these are budgeted for, but some are not. Senior Planner Dungan explained that they will be depending on grant funding for a lot of things.

Commissioner Hoen noted that sidewalks continue to be discussed as something that is lacking in the City. He asked if there is part of a plan that says we are going to do a certain amount of sidewalks. Senior Planner Dungan replied that there is an allowance for sidewalks in the maintenance code. In the zoning code under residential density incentives there are additional bonus credits given to developers if they do off-site sidewalk improvements. Senior Planner Gemmer commented that with any new projects there is an expectation that frontage improvements will be done. Moving forward the situation should be improving. Also, in the existing Transportation Plan which was adopted in 2015 there is prioritization of where the City wants sidewalks constructed.

Chair Leifer referred to the potential options for improvements around Geddes Marina and asked if the third one assumes that the previous ones were completed. Senior Planner Dungan explained that there are steps that need to be completed. Cleanup of the site is the first step. The park will likely be constructed in phases as funding allows. Director Koenig explained that this reflects the Council's direction relating to the budget. Senior Planner Dungan commented that the Capital Facilities Plan as presented was adjusted to address Council's wishes related to budget discussions.

Chair Leifer commented that it appears that the improvements to Public Works would allow the existing building to be utilized by other uses, and a new facility for Public Works would be constructed. Director Koenig didn't think there was a new facility or expansion planned for Public Works. Senior Planner Dungan commented that Sanitation is relocating some of their trucks onto the old mill site that is adjacent.

Chair Leifer asked if Public Safety is the planned site for the new facility. Director Koenig commented that they don't have a site yet for the new facility, but there are also some fire uses there. He noted that this project is complicated by the Regional Fire Authority issue right now.

Commissioner Andes asked if water and road improvements would be done at the same. Senior Planner Dungan replied that typically they would be, but noted that someone from Public Works will be present at the hearing to answer questions.

**Motion** made by Commissioner Richards, seconded by Commissioner Andes, to schedule this for a public hearing. **Motion** passed unanimously (6-0).


## CITY COUNCIL AGENDA ITEMS AND MINUTES

### ADJOURNMENT

**Motion** made by Commissioner Smith, seconded by Commissioner Richards, to adjourn the meeting at 8:28 p.m. **Motion** passed unanimously (6-0).

### NEXT MEETING:

January 24, 2017

  
\_\_\_\_\_  
Angela Gemmer, Senior Planner, for  
Laurie Hugdahl, Recording Secretary

PLANNING  
COMMISSION



MINUTES

January 24, 2017

7:00 p.m.

City Hall

**CALL TO ORDER**

Chair Leifer called the January 24, 2017 meeting to order at 7:00 p.m.

Marysville

**Chairman:** Steve Leifer

**Commissioners:** Jerry Andes, Kay Smith, Kelly Richards, Brandon Whitaker

**Staff:** Community Development Director Dave Koenig, Planning Manager Chris Holland, Senior Planner Cheryl Dungan, Senior Planner Angela Gemmer, City Engineer Jeff Laycock

**Absent:** Roger Hoen, Tom Thetford (excused)

**APPROVAL OF MINUTES**

January 10, 2017

Commissioner Smith noted that on Page 1, "Gemmer" needs to be added to Angela's name.

Commissioner Richards added that on Page 2, in the second paragraph from the bottom, "Well" was not spelled correctly

**Motion** made by Commissioner Smith, seconded by Commissioner Richards, to approve the January 10, 2017 Meeting Minutes with the two corrections as noted above. **Motion** passed unanimously (5-0).

**AUDIENCE PARTICIPATION**

None

## PUBLIC HEARING

### A. 2017-2022 DRAFT Capital Facilities Plan

Senior Planner Dungan indicated staff did not have any additional information on this. She stated that staff is recommending approval of the Capital Facilities Plan and forwarding it for Council approval.

Chair Leifer stated that his only question was regarding prioritization of the projects. City Engineer Laycock explained that a lot of projects are identified in other Plans. They are also prioritized as far as the funding and grants that might be available. Related projects can also make other projects a priority.

Commissioner Andes referred to a transportation project on State Avenue from 100<sup>th</sup> to 116<sup>th</sup> and a water project from 112<sup>th</sup> to 116<sup>th</sup> and asked if those projects would be constructed at the same time. City Engineer Laycock said they would be done at the same time, but they are funded from different accounts so they are listed separately.

The public hearing was opened at 7:07 p.m. and public testimony was solicited. There was none. The hearing was closed at 7:08 p.m.

**Motion** made by Commissioner Richards, seconded by Commissioner Smith, to forward the Capital Facilities Plan on to City Council with a recommendation for approval. **Motion** passed unanimously (5-0).

## OLD BUSINESS

### A. Code Amendment – Flagpoles

Senior Planner Gemmer explained that at the last meeting there were concerns about the height allowance above the height in the zone and the proposed setback requirements. The revision is that the flag pole may rise ten feet above the height limit or five feet above the highest point of the roof, whichever is greater. For uncovered accessory structures (such as radio antennae and dishes, mechanical equipment, play structures and tennis courts) flagpoles would be allowed to project to the property line in the side and the rear yard, but in the front yard they would observe the general setback for the zone which is 20 feet. For accessory structures that are more pole-like in nature such as flag poles and lamp posts, the setback would be five feet from the property line. They would have to be located outside of a utility or access easement, and any flag may not be displayed in a manner that would cause an encroachment or neighborhood issue. Staff is also eliminating the references to flags in the Sign Code.

Commissioner Andes thought that the new proposed setbacks made sense.

Chair Leifer asked what the maximum height in the single family zones is typically. Senior Planner Gemmer replied it is typically 30 feet.

Commissioner Andes asked if this would be addressed differently in commercial zones. Senior Planner Gemmer replied that there is not a height restriction for commercial zones. In a commercial zone, a flagpole would only be restricted to comply with FAA regulations.

Commissioner Whitaker asked what will happen with existing flagpoles that don't meet these regulations. Planning Manager Holland explained they would be grandfathered in.

Chair Leifer asked about the verbiage on permitting flag poles. Planning Manager Holland replied that it is outlined in the IBC and IRC and it is considered an accessory structure requiring a permit. Staff would issue an over-the-counter permit to be installed per the manufacturer's specifications. On commercial applications, it would take a little more engineering.

Chair Leifer referred to comments from Mr. Kaiser and asked for confirmation that staff would depend on the manufactures' recommendations for installation or, in the absence of that, require that calculations be done based on the size of the flag poles. Director Koenig confirmed that the building official would make that determination. There was discussion about flagpoles and manufacturers' recommended flag sizes.

There was consensus from the Planning Commission to schedule this item for a public hearing.

## **NEW BUSINESS**

### **A. Code Amendment – Accessory Structure Provisions**

Senior Planner Gemmer explained that this would restrict shipping containers to residential properties that are over an acre in size and require that they be placed behind screening, fencing, or landscaping. In commercial and industrial zones, they would be subject to the screening provisions that are already applicable to storage.

Senior Planner Gemmer then explained that there have been concerns about people converting parts of houses into living spaces that don't meet the definition of dwelling unit and result in sub-par living situations. The proposed code would define "dwelling" as a shelter in which a person or people live and require a dwelling to comply with accessory dwelling unit standards.

Commissioner Whitaker asked if the concerns have come mainly from code enforcement staff or public complaints. Planning Manager Holland explained that they have come from both sources.

Commissioner Richards asked where the minimum size of one acre came from for shipping containers. Senior Planner Gemmer replied one acre is the threshold at which the general residential accessory structure provisions would apply. Senior Planner Holland explained that this would not preclude someone from coming in and requesting a deviation.



Commissioner Richards asked about temporary moving containers that people bring in when they are moving. Community Development Director Koenig replied that this would not apply to temporary containers or pods, which are addressed on a case-by-case basis.

#### A. Code Amendment – PRD Open Space

Senior Planner Gemmer explained that this is to clarify the expectations about how much open space is required in a Planned Residential Development. This would clarify that 65% of the open space requirement can be satisfied with critical areas and buffers.

Chair Leifer asked where required yards fit in to the equation. Planning Manager Holland replied that a yard on your lot would not count toward your overall open space requirement, which must be a shared open space area.

### **DIRECTOR'S COMMENTS**

Director Koenig had the following updates:

- In the 2017 Budget, Code Enforcement is being moved to the Police Department. There is a new group within the Police Department that will be called Community Services. There will also be a new working sergeant doing enforcement along with the Code Enforcement Officer and Community Resource Officer. There will also be some staffing related to park security issues. The desire of the Council was to put more emphasis on code enforcement. This transition will be happening over the next couple months.
- The City has purchased the Welco property in order to open up the community to the river more. There is one office building there which police will be using for the time being. Over time the City wants to open up the water front to spur on redevelopment of the downtown area.

Planning Manager Holland added that City Engineer Jeff Laycock submitted a shoreline permit today for a trail going from the boat launch underneath the bridge.

### **COMMISSIONERS COMMENTS**

Commissioner Andes asked about the Quilceda Auto Wrecking building. Planning Manager Holland wasn't sure, but said it looked like they were cleaning it up. He indicated he would look into it. Director Koenig thought that the City might be interested in that site related to State Avenue improvements. He noted that they studied it and didn't find any contamination. He commented that the City will need an area for mitigation when State Avenue is expanded for storm drainage.

### **CITY COUNCIL AGENDA ITEMS AND MINUTES**

### **ADJOURNMENT**

**Motion** made by Commissioner Richards, seconded by Commissioner Whitaker, to adjourn the meeting at 7:46 p.m. **Motion** passed unanimously.

**NEXT MEETING:**

February 14, 2017

 for  
\_\_\_\_\_  
Laurie Hugdahl, Recording Secretary

*DRAFT*PLANNING  
COMMISSIONMINUTES

February 14, 2017

7:00 p.m.

City Hall

**CALL TO ORDER**

Chair Leifer called the February 14, 2017 meeting to order at 7:00 p.m.

Marysville

**Chairman:** Steve Leifer

**Commissioners:** Roger Hoen, Jerry Andes, Kay Smith, Kelly Richards, Brandon Whitaker

**Staff:** Community Development Director Dave Koenig, Senior Planner Angela Gemmer

**Absent:** Tom Thetford (excused)

**APPROVAL OF MINUTES**January 24, 2017

**Motion** made by Commissioner Richards, seconded by Commissioner Smith, to approve the January 24, 2017 Meeting Minutes as presented. **Motion** passed unanimously (6-0).

**AUDIENCE PARTICIPATION**

None

**PUBLIC HEARINGS – CODE AMENDMENTS**

Senior Planner Gemmer explained that these are the same amendments as proposed at the January 24 work session. On February 13 staff received email comments from Evan Kaiser which were distributed to the Planning Commission. Staff is proposing some changes based on Mr. Kaiser's comments. She reviewed the following concerns and staff's responses:

# DRAFT

- One concern raised by Mr. Kaiser was that the proposed definition of flagpole discussed at the prior workshop did not address what would happen if the flag was not hanging from a flagpole. In order to remedy that concern, staff is recommending a change in the definition of a flagpole to state a flagpole means, “a tall pole on which a flag is or can be displayed,” to address that concern.
- A question was raised as to whether or not a flag could be regulated as sign. Staff’s position is that the City will not regulate the content of flags just as they do not regulate the content of signs as a result of a Supreme Court ruling.
- Another concern was that there is no definition of “flag” given in the code. Senior Planner Gemmer stated that there is a common understanding of what a flag is. Not every term that is contained in the code has a specific definition. Where there is an absence of a specific definition in the zoning code, the conventional dictionary and common understanding is what would be used.
- Another concern was raised regarding temporary and special event signs. She explained that the sign code is intended to regulate commercial content.
- There was a concern about the potential for obscene material to be displayed; however, federal law prohibits this.
- Another concern is that radio antennas are listed as something that can project to the property line in the back yard and side yard. This is in conflict with a provision in the wireless code. Staff is proposing to strike the reference to radio dishes and antennas in the projection section in order to eliminate any conflict in the codes.
- Another concern related to the terms *accessory apartment* and *accessory dwelling units*. These are interchangeable terms in the code, but staff may choose to make consistent in the future.
- Another concern related to changes made in setbacks from the original version and the more recent version of the code amendments. She explained that this was amended in response to Planning Commission discussion.

Commissioner Whitaker asked if the items staff is proposing to change are already included in the draft. Senior Planner Gemmer distributed a copy of the two proposed changes staff had drafted today in response to the email received from Mr. Kaiser yesterday. Community Development Director Koenig summarized the two changes as:

1. Clarification of the definition of “flagpole”
2. Under residential setbacks, taking out radio antennas and dishes in the projection section

Chair Leifer reiterated the proposed changes and solicited comments from the Planning Commission. There appeared to be consensus regarding the proposed amendments.

Chair Leifer opened the public hearing related to code amendments, items A-G at 7:19 p.m.

## A. Flags and flagpoles

Public Testimony:

Evan Kaiser, 2910 73rd, Avenue NE, Marysville, WA stated that most of his concerns have been corrected by staff's proposed new changes; however, he had the following comments:

- He stated he still sees no need to have a 30-40 foot high flagpole in a residential area.
- He is fine with the flagpole definition.
- Regarding regulating the content of a flag, he expressed concern about businesses flying their flags in residential areas. He spoke in support of the old definition of flags. He expressed concern that people could still put up objectionable things even if they are not obscene.
- He referred to his email and said that they could ignore the comments about signs.
- He expressed concern about the staff response from Gloria Hirashima dated February 3, 2017.
- He asked about regulations that govern signs in residential neighborhoods.
- He asked why the city would want to have anything that encroaches into setbacks. He thinks the whole section should be reconsidered. He expressed concern about the ability to put a 70-foot high antenna right on the property line.

Director Koenig reviewed the dictionary definition of a flag which would apply in this case. He noted that not everything in the code needs to be defined.

Senior Planner Gemmer noted that within the sign code there are regulations related to limitations on signs in residential zones. With regard to the concerns about setbacks, she noted that the one of the main reasons for setbacks is fire safety. Some of the things that are listed as exemptions from setback requirements really don't raise large fire safety concerns.

Chair Leifer asked if a flag could have some message on it conveying business-type information related to a home occupation business. Director Koenig commented that flags are not typically used as signs because they are not visible all the time. This has not been an issue that the City has dealt with. He commented that they could adopt a definition of sign if desired by the Planning Commission. He noted that the US Supreme Court made a decision that cities could not regulate the content of signage. Staff's intent is to define a flag as a flag and not a sign.

Mr. Kaiser stated he doesn't think the code would prohibit any business from putting a flag up on a residential flag pole.

Commissioner Hoen referred to POW flags and asked where that would fit in. Director Koenig thought that it would fall under the definition of a flag.

Commissioner Richards clarified that the Planning Commission just recommends to City Council what they think should be done. The City Council is the body that actually makes the decisions.

- B. Minimum required parking spaces
- C. Duplex dimensional standards
- D. “Social Services” definition
- E. Manufactured homes – administrative deviation
- F. Accessory structure provisions - “Dwelling” definition and compliance with accessory dwelling unit provisions; Cargo/shipping container allowances
- G. PRD Open Space

**Motion** made by Commissioner Richards, seconded by Commissioner Smith, to forward the code amendments listed as items A-G to City Council with the changes to the flagpole amendments as recommended by staff tonight. **Motion** passed unanimously (6-0).

Chair Leifer referred to Mr. Kaiser’s concerns about regulating the content on flags and commented that the Planning Commission was not in support of recommending against a ruling by the Supreme Court. His understanding was that the City would be in direct defiance of that ruling if they tried to regulate the content. Director Koenig commented that staff would clarify this understanding with the City Attorney.

The public hearing was closed at 7:50 p.m.

## **CITY COUNCIL AGENDA ITEMS AND MINUTES**

### **STAFF COMMENTS**

Staff provided a copy of a request from a citizen related to a potential amendment regarding home occupation standards. Director Koenig summarized the request where someone wanted to sell merchandise from their home and commented that staff is not in support of the change. Senior Planner Gemmer explained that the current code states that sales are limited to merchandise which is produced on the premises or telephone or online sales with offsite delivery.

### **ADJOURNMENT**

**Motion** made by Commissioner Andes, seconded by Commissioner Whitaker, to adjourn the meeting at 7:57 p.m. **Motion** passed unanimously.

*DRAFT***NEXT MEETING:**

February 28, 2017

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Laurie Hugdahl, Recording Secretary

**CITY OF MARYSVILLE**  
**Marysville, Washington**  
**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, AMENDING THE CITY'S MUNICIPAL CODE AND DEVELOPMENT REGULATIONS BY AMENDING SECTIONS 22A.020.050, 22A.020.070, AND 22A.020.200 OF MMC CHAPTER 22A.020, DEFINITIONS; AMENDING SECTIONS 22C.010.060, 22C.010.070, 22C.010.090, 22C.010.210, AND 22C.010.220 OF MMC CHAPTER 22C.010, RESIDENTIAL ZONES; AMENDING SECTIONS 22C.020.060, 22C.020.070, AND 22C.020.190 OF MMC CHAPTER 22C.020, COMMERCIAL, INDUSTRIAL, RECREATION AND PUBLIC INSTITUTIONAL ZONES; AMENDING SECTION 22C.130.030 OF MMC CHAPTER 22C.130 PARKING AND LOADING; AMENDING SECTION 22C.160.080 OF MMC CHAPTER 22C.160 SIGNS; AMENDING SECTION 22G.080.100 OF MMC CHAPTER 22G.080 PLANNED RESIDENTIAL DEVELOPMENTS; AND AMENDING SECTION 22A.010.160 OF MMC CHAPTER 22A.010, GENERAL ADMINISTRATION, RELATED TO TRACKING AMENDMENTS TO THE CITY'S UNIFORM DEVELOPMENT CODE.**

WHEREAS, the State Growth Management Act, RCW Chapter 36.70A mandates that cities periodically review and amend development regulations which include but are not limited to zoning ordinances and official controls; and

WHEREAS, RCW 36.70A.106 requires the processing of amendments to the City's development regulations in the same manner as the original adoption of the City's comprehensive plan and development regulations; and

WHEREAS, the State Growth Management Act requires notice and broad public participation when adopting or amending the City's comprehensive plan and development regulations; and

WHEREAS, the City, in reviewing and amending its development regulations has complied with the notice, public participation and processing requirements established by the Growth Management Act, as more fully described below; and

WHEREAS, the City Council of the City of Marysville finds that from time to time it is necessary and appropriate to review and revise provisions of the City's municipal code and development code (MMC Title 22); and

WHEREAS, during public meetings on November 22, 2016, January 10, 2017, and January 24, 2017, the Planning Commission discussed proposed amendments to MMC Sections 22A.020.050, 22A.020.070, 22A.020.200, 22C.010.060, 22C.010.070, 22C.010.090, 22C.010.210, 22C.010.220, 22C.020.060, 22C.020.070, 22C.020.190, 22C.130.030, 22C.160.080, 22G.080.100, and 22A.010.160; and

WHEREAS, the City of Marysville has submitted the proposed development regulation revisions to the Washington State Department of Commerce on January 30, 2017, as required by RCW 36.70A.106; and

WHEREAS, the amendments to the development regulations are exempt from State Environmental Policy Act review under WAC 197-11-800(19);



WHEREAS, after providing notice to the public as required by law, on February 14, 2017, the Marysville Planning Commission held a Public Hearing on the proposed amendments to the City's development regulations; and

WHEREAS, on February 14, 2017 the Planning Commission made a Recommendation to the City Council recommending the adoption of the proposed amendments to MMC Sections 22A.020.050, 22A.020.070, 22A.020.200, 22C.010.060, 22C.010.070, 22C.010.090, 22C.010.210, 22C.010.220, 22C.020.060, 22C.020.070, 22C.020.190, 22C.130.030, 22C.160.080, 22G.080.100, and 22A.010.160; and

WHEREAS, at a public meeting on March 13, 2017 the Marysville City Council reviewed and considered the Planning Commission's Recommendation and proposed amendments to the development regulations; and

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

Section 1. Approval of Planning Commission's Recommendation and Adoption of Findings and Conclusions. The Planning Commission's February 14, 2017 Recommendation regarding the proposed development regulation revisions, including the Findings and Conclusions contained therein, as set forth in the attached **Exhibit "A"**, is hereby adopted and incorporated herein by this reference.

Section 2. Required Findings. In accordance with MMC 22G.010.520, the following findings are made regarding the development regulation amendments subject of this ordinance:

- (1) The amendments are consistent with the purposes of the comprehensive plan;
- (2) The amendments are consistent with the purpose of Title 22 MMC;
- (3) There have been significant changes in the circumstances to warrant a change;
- (4) The benefit or cost to the public health, safety and welfare is sufficient to warrant the action.

Section 3. Section 22A.020.050, "D" definitions, of MMC Chapter 22A.020, Definitions, is hereby amended by adding a new definition to read as follows:

**22A.020.050 "D" definitions.**

"Dwelling" means a shelter in which a person or people live.

Section 4. Section 22A.020.070, "F" definitions, of MMC Chapter 22A.020, Definitions, is hereby amended by adding a new definition to read as follows:

**22A.020.070 "F" definitions.**

"Flagpole" means a tall pole on which a flag is or can be displayed.

Section 5. Section 22A.020.200, "S" definitions, of MMC Chapter 22A.020, Definitions, is hereby amended to read as follows:

**22A.020.200 "S" definitions.**

“Sign” means any device, fixture, or placard that is visible from a public right-of-way or surrounding properties and uses graphics, symbols, logos, or written copy conveying a message or image and used to inform or attract the attention of the public, such as advertising or identifying an establishment, product, goods, service or activity. A sign may have multiple faces and advertise multiple on-premises establishments, businesses, products, services, or activities. This definition does not include any flag ~~of any country, state or local jurisdiction~~. Unless the context clearly provides to the contrary, a “sign” as used in this chapter also includes the “sign structure.”

Section 6. Section 22A.020.200, “S” definitions, of MMC Chapter 22A.020, Definitions, is hereby amended by adding a new definition to read as follows:

**22A.020.200 “S” definitions.**

“Social services” means public or nonprofit establishments, organizations or agencies that provide counseling, therapy or other social or human services to persons needing such services due to physical, mental, emotional, or other disabilities.

Section 7. Section 22C.010.060, Permitted uses, of MMC Chapter 22C.010, Residential Zones, is hereby amended to read as follows:

**22C.010.060 Permitted uses.**

	R-4.5	R-6.5	R-8	WR R-4-8	R-12	R-18	R-28	WR R-6-18	R-MHP
<b>Specific Land Use</b>									
<b>Residential Land Uses</b>									
Dwelling Units, Types:									
Single detached (14)	P11	P11	P11	P11	P11	P11	P11	P11	P43
Model home	P30	P30	P30	P30	P30	P30	P30	P30	P30
Cottage housing	C6	C6	C6	C6	C6	C6	C6	C6	
Duplex (14)	C8	P8	P8	P8	P	P	P	P	
Townhouse	P3	P3	P3	P3	P	P	P	P	
Multiple-family					P	P	P	P	
Mobile home	P12	P12	P12	P12	P12	P12	P12	P12	P12
Mobile/manufactured home park	P3	P3	P3		C	P	P		P45
Senior citizen assisted	C2	C2	C2	C2	C2	C2	C2	C2	C2
Factory-built	P7	P7	P7	P7	P7	P7	P7	P7	P7,

<b>Specific Land Use</b>	<b>R-4.5</b>	<b>R-6.5</b>	<b>R-8</b>	<b>WR R-4-8</b>	<b>R-12</b>	<b>R-18</b>	<b>R-28</b>	<b>WR R-6-18</b>	<b>R-MHP</b>
									43
Recreational vehicle									P44
<b>Group Residences:</b>									
Adult family home	P	P	P	P	P	P	P	P	P
Convalescent, nursing, retirement	C2	C2	C2	C2	C2	C2	C2	C2	
Residential care facility	P	P	P	P	P	P	P	P	
Master planned senior community (15)	C	C	C	C	C	C	C	C	C
<b>Accessory Uses:</b>									
Residential accessory uses (1), (9), (10), (49), (50)	P	P	P	P	P	P	P	P	P
Home occupation (5)	P	P	P	P	P13	P13	P13	P13	P
<b>Temporary Lodging:</b>									
Hotel/motel					P	P	P	P	
Bed and breakfast guesthouse (4)		C	C	C	P	P	P	P	
Bed and breakfast inn (4)					P	P	P	P	
<b>Recreation/Cultural Land Uses</b>									
<b>Park/Recreation:</b>									
Park	P16	P16	P16	P16	P16	P16	P16	P16	P16
Recreational vehicle park									C46
Community center	C	C	C	C	C	C	C	C	C
<b>Amusement/Entertainment:</b>									
Sports club					C	C	C	C	
Golf facility (17)	C	C	C	C	P	P	P	P	

<b>Specific Land Use</b>	<b>R-4.5</b>	<b>R-6.5</b>	<b>R-8</b>	<b>WR R-4-8</b>	<b>R-12</b>	<b>R-18</b>	<b>R-28</b>	<b>WR R-6-18</b>	<b>R-MHP</b>
Cultural:									
Library, museum and art gallery	C	C	C	C	C	C	C	C	C
Church, synagogue and temple	C	C	C	C	P	P	P	P	C
<b>General Services Land Uses</b>									
Personal Services:									
Funeral home/crematory	C18	C18	C18	C18	C18	C18	C18	C18	C18
Cemetery, columbarium or mausoleum	P24	P24	P24	P24	P24	P24	P24	P24	P24
	C19	C19	C19	C19	C19	C19	C19	C19	C19
Day care I	P20	P20	P20	P20	P20	P20	P20	P20	P20
Day care II	C25	C25	C25	C25	C	C	C	C	C25
Stable	C	C	C	C					
Kennel or cattery, hobby	C	C	C	C	C	C	C	C	
Electric vehicle (EV) charging station (38), (39)	P	P	P	P	P	P	P	P	
EV rapid charging station (40), (41), (42)					P	P	P	P	
Health Services:									
Medical/dental clinic					C	C	C	C	
Education Services:									
Elementary, middle/junior high, and senior high (including public, private and parochial)	C	C	C	C	C	C	C	C	C
Commercial school	C21	C21	C21	C21	C21	C21	C21	C21	
School district support facility	C23	C23	C23	C23	C23	C23	C23	C23	
Interim recycling facility	P22	P22	P22	P22	P22	P22	P22	P22	

<b>Specific Land Use</b>	<b>R-4.5</b>	<b>R-6.5</b>	<b>R-8</b>	<b>WR R-4-8</b>	<b>R-12</b>	<b>R-18</b>	<b>R-28</b>	<b>WR R-6-18</b>	<b>R-MHP</b>
Vocational school									
<b>Government/Business Service Land Uses</b>									
Government Services:									
Public safety facilities, including police and fire	C26	C26	C26	C26	C26	C26	C26	C26	C26
Utility facility	P	P	P	P	P	P	P	P	P
Private storm water management facility	P	P	P	P	P	P	P	P	P
Public storm water management facility	P	P	P	P	P	P	P	P	P
Business Services:									
Self-service storage (31)					C27	C27	C27	C27	
Professional office					C	C	C	C	
Automotive parking	P29	P29	P29	P29	P29	P29	P29	P29	
Model house sales office	P47	P47	P47	P47					
Wireless communication facility (28)	P C	P C	P C	P C	P C	P C	P C	P C	P C
State-Licensed Marijuana Facilities:									
Marijuana cooperative (48)									
Marijuana processing facility – Indoor only (48)									
Marijuana production facility – Indoor only (48)									
Marijuana retail facility (48)									
<b>Retail/Wholesale Land Uses</b>									
Forest products sales	P32	P32	P32	P32					

	R-4.5	R-6.5	R-8	WR R-4-8	R-12	R-18	R-28	WR R-6-18	R-MHP
<b>Specific Land Use</b>									
Agricultural crop sales	P32	P32	P32	P32					
<b>Resource Land Uses</b>									
Agriculture:									
Growing and harvesting crops	P34	P34	P34	P34					
Raising livestock and small animals	P35	P35	P35	P35					
Forestry:									
Growing and harvesting forest products	P34	P34	P34	P34					
Fish and Wildlife Management:									
Hatchery/fish preserve (33)	C	C	C	C					
Aquaculture (33)	C	C	C	C					
<b>Regional Land Uses</b>									
Regional storm water management facility	C	C	C	C	C	C	C	C	C
Nonhydroelectric generation facility	C	C	C	C	C	C	C	C	C
Transit park and pool lot	P	P	P	P	P	P	P	P	
Transit park and ride lot	C	C	C	C	C	C	C	C	
School bus base	C36	C36	C36	C36	C36	C36	C36	C36	
Racetrack	C37	C37	C37	C37	C37	C37	C37	C37	
College/university	C	C	C	C	C	C	C	C	

Section 8. Section 22C.010.070, Permitted uses – Development conditions, of MMC Chapter 22C.010, Residential Zones, is hereby amended to read as follows:

**22C.010.070 Permitted uses – Development conditions.**

(1) Accessory dwelling units must comply with development standards in Chapter [22C.180](#) MMC. 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 planned residential development (PRD) proposal, and subject to the same density as the underlying zone.
- (4) Bed and breakfast guesthouses and inns are subject to the requirements and standards contained in Chapter [22C.210](#) MMC.
- (5) Home occupations are subject to the requirements and standards contained in Chapter [22C.190](#) MMC.
- (6) Subject to cottage housing provisions set forth in MMC [22C.010.280](#).
- (7) Factory-built dwelling units shall comply with the following standards:
- (a) A factory-built house must be inspected at least two times at the factory by the State Building Inspector during the construction process, and must receive an approval certifying that it meets all requirements of the International Building Code. At the building site, the city building official will conduct foundation, plumbing and final inspections.
  - (b) A factory-built house cannot be attached to a metal frame allowing it to be mobile. All such structures must be placed on a permanent foundation at the building site.
- (8) Permitted outright in the R-6.5, R-8, and WR-R-4-8 zones on minimum 7,200-square-foot lots. A conditional use permit is required for the R-4.5 zone, and the minimum lot size must be 12,500 square feet. Duplexes must comply with the comprehensive plan density requirements for the underlying land use designation.
- (9) A garage sale shall comply with the following standards:
- (a) No residential premises shall have more than two such sales per year and no such sale shall continue for more than six days within a 15-day period.
  - (b) Signs advertising such sales shall not be attached to any public structures, signs or traffic control devices, nor to any utility poles. All such signs shall be removed 24 hours after the sale is completed.

A garage sale complying with the above conditions shall be considered as being an allowable accessory use to all residential land uses. A garage sale violating one or more of the above conditions shall be considered as being a commercial use and will be disallowed unless it complies with all requirements affecting commercial uses.

- (10) Residential accessory structures must comply with development standards in Chapter [22C.180](#) MMC.
- (11) Manufactured homes must:
- ~~(a) Be no more than five years old, as evidenced by the date of manufacture recorded on the HUD data plate;~~
  - (ab) Be set on a permanent foundation, as specified by the manufacturer, enclosed with an approved concrete product from the bottom of the home to the ground which may be either load-bearing or decorative;
  - (be) Meet all design standards applicable to all other single-family homes in the neighborhood in which the manufactured home is to be located.
  - (c) Be no more than five years old, as evidenced by the date of manufacture recorded on the HUD data plate. An administrative variance to the requirement that a manufactured home be no more than five years old may be granted by the community development director only if the applicant demonstrates all of the following:
    - (i) The strict enforcement of the provisions of this title creates an unnecessary hardship to the property owner;
    - (ii) The proposed manufactured home is well maintained, and does not create any health or safety hazards;
    - (iii) The variance is necessary or warranted because of the unique size, shape, topography, location, critical areas encumbrance, or other feature of the subject property;
    - (iv) The proposed manufactured home will be compatible with the neighborhood or area where it will be located;
    - (v) The subject property is deprived, by provisions of this title, of rights and privileges enjoyed by other properties in the vicinity and under an identical zone;
    - (vi) The need for the variance is not the result of deliberate actions of the applicant or property owner; and

- (vii) The variance is the minimum necessary to grant relief to the applicant.
- (12) Mobile homes are only allowed in existing mobile home parks established prior to October 16, 2006.
- (13) Home occupations are limited to home office uses in multifamily dwellings. No signage is permitted in townhouse or multifamily dwellings.
- (14) No more than one single-family detached or duplex dwelling is allowed per lot except in planned residential developments, through the provisions of Chapter [22G.080](#) MMC, using the binding site plan (BSP) process outlined in Chapter [22G.100](#) MMC, and designated on the face of the BSP, for multiple single-family detached dwellings on a single parcel; or accessory dwelling units through the provisions of Chapter [22C.180](#) MMC.
- (15) Subject to Chapter [22C.220](#) MMC, Master Planned Senior Communities.
- (16) 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.
- (17) Golf facilities shall comply with the following:
- (a) Structures, driving ranges and lighted areas shall maintain a minimum distance of 50 feet from property lines adjoining residential zones.
  - (b) Restaurants are permitted as an accessory use to a golf course.
- (18) Only as an accessory to a cemetery.
- (19) Structures shall maintain a minimum distance of 100 feet from property lines adjoining residential zones.
- (20) Only as an accessory to residential use and subject to the criteria set forth in Chapter [22C.200](#) MMC.
- (21) Only as an accessory to residential use, provided:
- (a) Students are limited to 12 per one-hour session;
  - (b) All instruction must be within an enclosed structure; and
  - (c) Structures used for the school shall maintain a distance of 25 feet from property lines adjoining residential zones.
- (22) Limited to drop box facilities accessory to a public or community use such as a school, fire station or community center.
- (23) Only when adjacent to an existing or proposed school.
- (24) Limited to columbariums accessory to a church; provided, that existing required landscaping and parking are not reduced.
- (25) Day care IIs must be located on sites larger than one-half acre and are subject to minimum standards identified in Chapter [22C.200](#) MMC for day care 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.
- (26) Public safety facilities, including police and fire, shall comply with the following:
- (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.
- (27) Accessory to an apartment development of at least 12 units, provided:
- (a) The gross floor area in self-service storage shall not exceed 50 percent of the total gross floor area of the apartment dwellings on the site;
  - (b) All outdoor lights shall be deflected, shaded and focused away from all adjoining property;
  - (c) The use of the facility shall be limited to dead storage of household goods;
  - (d) No servicing or repair of motor vehicles, boats, trailers, lawn mowers or similar equipment;



- (e) No outdoor storage or storage of flammable liquids, highly combustible or explosive materials or hazardous chemicals;
  - (f) No residential occupancy of the storage units;
  - (g) No business activity other than the rental of storage units to the apartment dwellings on the site; and
  - (h) A resident manager shall be required on the site and shall be responsible for maintaining the operation of the facility in conformance with the conditions of approval.
- (28) All WCFs and modifications to WCFs are subject to Chapter [22C.250](#) MMC including, but not limited to, the siting hierarchy, MMC [22C.250.060](#). WCFs may be a permitted use or a conditional use subject to MMC [22C.250.040](#).
- (29) Limited to commuter parking facilities for users of transit, carpools or ride-share programs, provided:
- (a) They are located on existing parking lots for churches, schools, or other permitted nonresidential uses which have excess capacity available during commuting hours; and
  - (b) The site is adjacent to a designated arterial that has been improved to a standard acceptable to the department.
- (30) Model Homes.
- (a) The community development director may approve construction of model homes subject to the following conditions:
    - (i) No model home shall be constructed without the issuance of a building permit;
    - (ii) In no event shall the total number of model homes in a preliminary subdivision be greater than nine;
    - (iii) A hard-surfaced roadway to and abutting all model homes shall be constructed to standards determined by the city engineer or designee;
    - (iv) Operational fire hydrant(s) must be available in accordance with the International Fire Code;
    - (v) Submittal of a site plan, stamped by a registered civil engineer or licensed surveyor, delineating the location of each structure relative to existing and proposed utilities, lot lines, easements, roadways, topography and critical areas;
    - (vi) Submittal of building permit applications for each of the proposed structures;
    - (vii) Approval of water, sewer and storm sewer extension plans to serve the proposed structures; and
    - (viii) Execution of an agreement with the city saving and holding it harmless from any damages, direct or indirect, as a result of the approval of the construction of model homes on the site.
  - (b) Prior to occupancy of any model home, the final plat of the subject subdivision shall be approved and recorded.
- (31) Any outdoor storage areas are subject to the screening requirements of the landscape code.
- (32) Subject to approval of a small farms overlay zone.
- (33) May be further subject to the provisions of the Marysville shoreline master program.
- (34) Only allowed in conjunction with the small farms overlay zone.
- (35) Provided, that the property has received approval of a small farms overlay designation, or is larger than one acre in size.
- (36) Only in conjunction with an existing or proposed school.
- (37) Except racing of motorized vehicles.
- (38) Level 1 and Level 2 charging only.
- (39) Allowed only as an accessory use to a principal outright permitted use or permitted conditional use.
- (40) The term "rapid" is used interchangeably with "Level 3" and "fast charging."
- (41) Only "electric vehicle charging stations – restricted" as defined in Chapter [22A.020](#) MMC.
- (42) Rapid (Level 3) charging stations are required to be placed within a parking garage.
- (43) One single-family detached dwelling per existing single lot of record. Manufactured homes on single lots must meet the criteria outlined in subsection (11) of this section.
- (44) Used as a permanent residence in an established MHP or RV park; provided, that utility hookups in MHPs meet current standards for MHPs or RV parks.
- (45) MHPs shall fulfill the requirements of Chapter [22C.230](#) MMC.

- (46) Recreational vehicle parks are subject to the requirements and conditions of Chapter [22C.240](#) MMC.
- (47) Model house sales offices are subject to the requirements of MMC [22C.110.030](#)(12).
- (48) No person or entity may produce, grow, manufacture, process, accept donations for, give away, or sell marijuana concentrates, marijuana-infused products, or usable marijuana within residential zones in the city. Provided, activities in strict compliance with RCW [69.51A.210](#) and [69.51A.260](#) are not a violation of the Marysville Municipal Code.
- (49) Shipping/cargo and similar storage containers are prohibited on lots within a platted subdivision and properties under one acre in size. Said containers may be located on properties over one acre in size if said container(s) are located behind the primary residence, observe all setbacks applicable to an accessory structure, and are screened from public view.
- (50) Accessory structures may not be utilized as, or converted to, a dwelling unless said structure complies with the accessory dwelling unit standards outlined in MMC 22C.180.030.

Section 9. Section 22C.010.090, Densities and dimensions – Development conditions, of MMC Chapter 22C.010, Residential Zones, is hereby amended to read as follows:

**22C.010.90 Densities and dimensions – Development conditions.**

- (1) Maximum Density – Dwelling Unit/Acre.
- (a) The maximum density for R-12, R-18, R-28, WR-R-4-8 and WR-R-6-18 zones may be achieved only through the application of residential density incentive provisions outlined in Chapter [22C.090](#) MMC.
- (b) The maximum net density for the single-family zones is the same as the base density; provided, that for PRD developments the maximum density may be increased by up to 20 percent through the application of residential density incentive provisions outlined in Chapter [22C.090](#) MMC.
- (2) The minimum lot sizes for duplexes apply to lots or parcels which existed on or before the effective date of the ordinance codified in this chapter. All new duplex lots created through the subdivision or short subdivision process shall be a minimum of 12,500 square feet in size in the R4.5 zone, and 7,200 square feet in size in the R-6.5, R-8 and WR-R-4-8 zones. Additionally, all new duplex lots, must include a “duplex disclosure,” on the plat map, and must comply with the density requirements of the comprehensive plan (six units per acre for the R-4.5 zone and eight units per acre for the R-6.5, R-8, and WR-R-4-8 zones).
- (3) These standards may be modified under the provisions for zero lot line and townhome developments.
- (4) Base Height.
- (a) Height limits may be increased when portions of the structure which exceed the base height limit provide one additional foot of street and interior setback beyond the required setback for each foot above the base height limit; provided, that the maximum height may not exceed 60 feet.
- (b) Multiple-family developments, located outside of Planning Area 1, abutting or adjacent to areas zoned as single-family, or areas identified in the comprehensive plan as single-family, may have no more floors than the adjacent single-family dwellings, when single-family is the predominant adjacent land use.
- (5) Applies to Each Individual Lot. Building coverage and impervious surface area standards for:
- (a) Regional uses shall be established at the time of permit review; or
- (b) Nonresidential uses in residential zones shall comply with MMC [22C.010.250](#).
- (6) Density – Dwelling Unit/Acre.
- (a) The densities listed for the single-family zones (R-4.5, R-6.5, R-8) and single-family development in the Whiskey Ridge zones (WR-R-4-8, WR-R-6-18) are maximum net densities.
- (b) Mobile home parks shall be allowed a maximum density of eight dwelling units per acre, unless located in the R-4.5 or R-6.5 zones, in which case they are limited to the density of the underlying zone.
- (7) The standards of the R-4.5 zone shall apply if a lot is less than 15,000 square feet in area.

(8) On a case-by-case basis, the street setback may be reduced to 10 feet; provided, that at least 20 linear feet of driveway are provided between any garage, carport, or other fenced parking area and the street property line, or the lot takes access from an alley. The linear distance shall be measured in a straight line from the nearest point of the garage, carport or fenced area to the access point at the street property line. In the case of platted lots, no more than two consecutive lots may be reduced to 10 feet.

(9) Residences shall have a setback of at least 50 feet from any property line if adjoining an agricultural zone either within or outside the city limits.

(10) For townhomes or apartment developments, the setback shall be the greater of:

(a) Twenty feet along any property line abutting R-4.5 through R-8, and WR-R-4-8 zones; or

(b) The average setback of the R-4.5 through R-8 zoned and platted single-family detached dwelling units from the common property line separating said dwelling units from the adjacent townhome or apartment development, provided the required setback applied to said development shall not exceed 60 feet. The setback shall be measured from said property line to the closest point of each single-family detached dwelling unit, excluding projections allowed per MMC [22C.010.210](#) and accessory structures existing at the time the townhome or apartment development receives approval by the city.

(11) Townhome setbacks are reduced to zero on an interior side yard setback where the units have a common wall for zero lot line developments.

(12) Townhome setbacks are reduced to five feet on side yard setbacks provided the buildings meet a 10-foot separation between structures.

(13) Single-family detached units and duplexes on individual lots within the R-12 through R-28, and WR-R-6-18 zones shall utilize the dimensional requirements of the R-8 zone, except the base density.

(14) Provided that the front yard setback shall be established as the point at which the lot meets the minimum width requirements. On a case-by-case basis, the street setback may be reduced to the minimum of 20 feet; provided, that the portion of the structure closest to the street is part of the "living area," to avoid having the garage become the predominant feature on the lot.

(15) Subject to MMC [22A.020.130](#), subsection (1)(a) of the definition of "lot lines."

(16) Required landscaping setbacks for developments on the north side of Soper Hill Road are 25 feet from the edge of sidewalk.

(17) Projects with split zoning (two or more distinct land use zones) may propose a master site plan to density average at the zone edge or modify the zone boundaries using topography, access, critical areas, or other site characteristics in order to provide a more effective transition between land uses and zones. Approval is at the discretion of the community development director.

Section 10. Section 22C.010.210, Setbacks – Projections allowed, of MMC Chapter 22C.010, Residential Zones, is hereby amended to read as follows:

**22C.010.210 Setbacks – Projections allowed.**

Projections may extend into required setbacks as follows:

(1) Fireplace structures including eaves and factory-built garden or bay windows may project into any setback, provided such projections are:

(a) Limited to two per facade;

(b) Not wider than 10 feet; and

(c) Not more than 24 inches into a side setback or 30 inches into a front or rear setback;

(2) Uncovered porches and decks, including stairs, which exceed 30 inches above the finished grade may project:

(a) Eighteen inches into side setbacks; and

(b) Five feet into the front or rear setback;

(3) Uncovered porches and decks not exceeding 30 inches above the finished grade, and uncovered accessory structures such as mechanical equipment, play structures, and tennis courts, may project to the property line, provided that, with the exception of uncovered porches and decks, the front property line setback for the zone shall be observed;

- (4) Eaves may not project more than:
  - (a) Twenty-four inches into a side setback;
  - (b) Thirty-four inches into a front or rear setback; or
  - (c) Eighteen inches across a lot line in a zero lot line development;
- (5) Accessory structures such as flagpoles and lampposts shall be setback a minimum of five feet from all property lines, provided:
  - (a) They are not located within a utility or access easement, and;
  - (b) Flags are not displayed in a manner that would cause the flag to encroach onto a neighboring property.

Section 11. Section 22C.010.220, Height – Exceptions to limits, of MMC Chapter 22C.010, Residential Zones, is hereby amended to read as follows:

**22C.010.220 Height – Exceptions to limits.**

The following structures may be erected above the height limits of MMC 22C.010.080:

- (1) Roof structures housing or screening elevators, stairways, tanks, ventilating fans or similar equipment required for building operation and maintenance; ~~and~~
- (2) Fire or parapet walls, skylights, chimneys, smokestacks, church steeples, and utility line towers and poles; ~~and~~
- (3) Flagpoles may rise ten feet above the height limit, or five feet above the highest point of the roof, whichever is greater.

Section 12. Section 22C.020.060, Permitted uses, of MMC Chapter 22C.020, Commercial, Industrial, Recreation, and Public Institutional Zones, is hereby amended to read as follows:

**22C.020.060 Permitted uses.**

Specific Land Use	NB	CB (63)	GC	DC	MU (63)	BP	LI	GI	REC	P/I
<b>Residential Land Uses</b>										
<b>Dwelling Units, Types:</b>										
Townhouse				P6	P					
Multiple-family	C4	P4, C5	P4, C5	P4, P6	P					
Mobile home	P7	P7	P7	P7	P7	P7	P7	P7		
Senior citizen assisted	P				C					P
Caretaker’s quarters (3)	P	P	P	P	P	P	P	P	P	P
<b>Group Residences:</b>										
Adult family home	P	P	P	P	P	P70	P70	P70	P70	P
Convalescent, nursing, retirement	C	P	P	P	P					P

Specific Land Use	NB	CB	GC	DC	MU	BP	LI	GI	REC	P/I
		(63)			(63)					
Residential care facility	P	P	P	P	P	P70	P70	P70	P70	P
Master planned senior community (10)					C					C
<b>Accessory Uses:</b>										
Home occupation (2)	P8	P8, P9	P8, P9	P8, P9	P8, P9	P9	P9	P9		
<b>Temporary Lodging:</b>										
Hotel/motel	P	P	P	P	P	P	P			
Bed and breakfast guesthouse (1)										
Bed and breakfast inn (1)	P	P	P							
<b>Recreation/Cultural Land Uses</b>										
<b>Park/Recreation:</b>										
Park	P11	P	P	P	P	P	P	P	P11	P
Marina				P				P	C	P
Dock and boathouse, private, noncommercial				P				P	P16	P
Recreational vehicle park			C12				C12		C	P
Boat launch, commercial or public				P				P		P
Boat launch, noncommercial or private				P				P	P17	P
Community center	P	P	P	P	P	P	P	P	P	P
<b>Amusement/Entertainment:</b>										
Theater		P	P	P	P					
Theater, drive-in			C							
Amusement and recreation services		P18	P18	P18	P19	P	P	C		
Sports club	P	P	P	P	P	P	P	P		

<b>Specific Land Use</b>	<b>NB</b>	<b>CB (63)</b>	<b>GC</b>	<b>DC</b>	<b>MU (63)</b>	<b>BP</b>	<b>LI</b>	<b>GI</b>	<b>REC</b>	<b>P/I</b>
Golf facility (13)		P	P			P	P	P	C	
Shooting range (14)			P15			P15	P15			
Outdoor performance center			C				C		C	C
Riding academy						P	P		C	
<b>Cultural:</b>										
Library, museum and art gallery	P	P	P	P	P	P	P	P	C	P
Church, synagogue and temple	P	P	P	P	P	P	P	P		P
Dancing, music and art center		P	P	P	P				C	P
<b>General Services Land Uses</b>										
<b>Personal Services:</b>										
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	P25		P	P		
Funeral home/crematory		P	P	P	P26	P	P	P		
Cemetery, columbarium or mausoleum	P24	P24	P24 C20			P	P	P		
Day care I	P70	P70	P70	P70	P70	P70	P21, 70	P70	P70	P70
Day care II	P	P	P	P	P	P21	P21			
Veterinary clinic	P	P	P	P	P	P	P	P		
Automotive repair and service	P22	C, P28	P			P	P	P		
Electric vehicle (EV) charging station (64)	P	P	P	P	P	P	P	P	P	P

<b>Specific Land Use</b>	<b>NB</b>	<b>CB (63)</b>	<b>GC</b>	<b>DC</b>	<b>MU (63)</b>	<b>BP</b>	<b>LI</b>	<b>GI</b>	<b>REC</b>	<b>P/I</b>
EV rapid charging station (65), (66)	P	P	P	P67	P67		P	P		
EV battery exchange station			P				P	P		
Miscellaneous repair		P	P				P	P		
Social services		P	P	P	P					P
Kennel, commercial and exhibitor/breeding (71)		P	P			C	P	P		
Pet daycare (71), (72)		P	P	P	P	P	P	P		
Civic, social and fraternal association		P	P	P	C	P		P		P
Club (community, country, yacht, etc.)						P		P		P
<b>Health Services:</b>										
Medical/dental clinic	P	P	P	P	P					P
Hospital		P	P	P	C					C
Miscellaneous health	P68	P68	P68	P68	P68					P68
<b>Education Services:</b>										
Elementary, middle/junior high, and senior high (including public, private and parochial)		C	C	C	C		P	C		C
Commercial school	P	P		P	P27					C
School district support facility	C	P	P	P	P		P	P		P
Vocational school		P	P	P	P27					P
<b>Government/Business Service Land Uses</b>										
<b>Government Services:</b>										
Public agency office	P	P	P	P	P	P	P	P		P
Public utility yard			P				P			P

Specific Land Use	NB	CB	GC	DC	MU	BP	LI	GI	REC	P/I
		(63)			(63)					
Public safety facilities, including police and fire	P29	P	P	P	P		P			P
Utility facility	P	P	P		C	P	P	P		P
Private storm water management facility	P	P	P	P	P	P	P	P		P
Public storm water management facility	P	P	P	P	P	P	P	P		P
<b>Business Services:</b>										
Contractors' office and storage yard			P30	P30	P30		P	P		
Interim recycling facility		P23	P23				P			P
Taxi stands		P	P							
Trucking and courier service		P31	P31				P	P		
Warehousing and wholesale trade			P			P	P	P		
Mini-storage (36)			P			P	P	P		
Freight and cargo service			P			P	P	P		
Cold storage warehousing							P	P		
General business service and office	P	P	P	P	P30	P	P	P		
Commercial vehicle storage						P	P	P		
Professional office	P	P	P	P	P	P	P			
Miscellaneous equipment rental		P30, 37	C38		P30, 37		P	P		
Automotive rental and leasing			P				P			
Automotive parking	P	P	P	P	P	P	P	P		
Research, development and testing			P			P	P	P		
Heavy equipment and truck repair							P	P		



Specific Land Use	NB	CB	GC	DC	MU	BP	LI	GI	REC	P/I
		(63)			(63)					
Automobile holding yard			C				P	P		
Commercial/industrial accessory uses (73)	P39, 40	P39	P39	P39, 40	P39, 40	P	P	P		
Adult facility								P33		
Factory-built commercial building (35)	P	P	P	P		P	P	P		
Wireless communication facility (32)	P, C	P, C	P, C	P, C	P, C	P, C	P, C	P, C		P, C
<b>State-Licensed Marijuana Facilities:</b>										
Marijuana cooperative (69)										
Marijuana processing facility – Indoor only (69)										
Marijuana production facility – Indoor only (69)										
Marijuana retail facility (69)										
<b>Retail/Wholesale Land Uses</b>										
Building, hardware and garden materials	P47	P	P	P	P47		P	P		
Forest products sales		P	P				P			
Department and variety stores	P	P	P	P	P		P			
Food stores	P	P	P	P	P45		P			
Agricultural crop sales		P	P		C		P			
Storage/retail sales, livestock feed							P	P		
Motor vehicle and boat dealers		P	P				P	P		
Motorcycle dealers		C	P	P49			P	P		
Gasoline service stations	P	P	P	P			P	P		

Specific Land Use	NB	CB	GC	DC	MU	BP	LI	GI	REC	P/I
		(63)			(63)					
Eating and drinking places	P41	P	P	P	P46	P	P	P		
Drug stores	P	P	P	P	P		P	P		
Liquor stores		P	P							
Used goods: antiques/secondhand shops		P	P	P	P					
Sporting goods and related stores		P	P	P	P					
Book, stationery, video and art supply stores	P	P	P	P	P					
Jewelry stores		P	P	P	P					
Hobby, toy, game shops	P	P	P	P	P					
Photographic and electronic shops	P	P	P	P	P					
Fabric and craft shops	P	P	P	P	P					
Fuel dealers			P43			P43	P43	P43		
Florist shops	P	P	P	P	P					
Pet shops	P	P	P	P	P					
Tire stores		P	P	P			P	P		
Bulk retail		P	P				P			
Auction houses			P42				P			
Truck and heavy equipment dealers							P	P		
Mobile home and RV dealers			C				P	P		
Retail stores similar to those otherwise named on this list	P	P	P	P	P48	P44	P44	P44		
Automobile wrecking yards							C	P		
<b>Manufacturing Land Uses</b>										

Specific Land Use	NB	CB (63)	GC	DC	MU (63)	BP	LI	GI	REC	P/I
Food and kindred products		P50, 52	P50				P50	P		
Winery/brewery		P53	P	P53	P53		P	P		
Textile mill products							P	P		
Apparel and other textile products			C				P	P		
Wood products, except furniture			P				P	P		
Furniture and fixtures			P				P	P		
Paper and allied products							P	P		
Printing and publishing	P51	P51	P		P51	P	P	P		
Chemicals and allied products							C	C		
Petroleum refining and related industries							C	C		
Rubber and misc. plastics products							P	P		
Leather and leather goods							C	C		
Stone, clay, glass and concrete products							P	P		
Primary metal industries							C	P		
Fabricated metal products			C			P	P	P		
Industrial and commercial machinery							C	P		
Heavy machinery and equipment							C	P		
Computer and office equipment			C				P			
Electronic and other electric equipment			C				P			
Railroad equipment							C	P		
Miscellaneous light manufacturing				P54			P	P		
Motor vehicle and bicycle manufacturing							C	P		

<b>Specific Land Use</b>	<b>NB</b>	<b>CB (63)</b>	<b>GC</b>	<b>DC</b>	<b>MU (63)</b>	<b>BP</b>	<b>LI</b>	<b>GI</b>	<b>REC</b>	<b>P/I</b>
Aircraft, ship and boat building							C	P		
Tire retreading							C	P		
Movie production/distribution			P				P			
<b>Resource Land Uses</b>										
<b>Agriculture:</b>										
Growing and harvesting crops						P	P	P	P	
Raising livestock and small animals						P	P	P	P	
Greenhouse or nursery, wholesale and retail			P			P	P	P	C	
Farm product processing							P	P		
<b>Forestry:</b>										
Growing and harvesting forest products							P			
Forest research							P			
Wood waste recycling and storage							C	C		
<b>Fish and Wildlife Management:</b>										
Hatchery/fish preserve (55)						P	P	P	C	
Aquaculture (55)							P	P	C	
Wildlife shelters	C	C							P	
<b>Mineral:</b>										
Processing of minerals							P	P		
Asphalt paving mixtures and block							P	P		
<b>Regional Land Uses</b>										
Jail		C	C			C	C			
Regional storm water management		C	C	C		C	C	C		P

Specific Land Use	NB	CB (63)	GC	DC	MU (63)	BP	LI	GI	REC	P/I
facility										
Public agency animal control facility			C				P	P		C
Public agency training facility		C56	C56		C56		C57			C57
Nonhydroelectric generation facility	C	C	C				C	C		C
Energy resource recovery facility							C			
Soil recycling/incineration facility							C	C		
Solid waste recycling								C		C
Transfer station							C	C		C
Wastewater treatment facility						C	C	C		C
Transit bus base			C				P			C
Transit park and pool lot	P	P	P	P	P	P	P	P		P
Transit park and ride lot	P	P	P	P	P	P	P	P		C
School bus base	C	C	C				P			C58
Racetrack	C59	C59	C				P			
Fairground						P	P	P		C
Zoo/wildlife exhibit		C	C							C
Stadium/arena			C				C	P		C
College/university	C	P	P	P	P	P	P	P		C
Secure community transition facility								C60		
Opiate substitution treatment program facilities		P61, 62	P61, 62	P61, 62			P62	P62		

Section 13. Section 22C.020.070, Permitted uses – Development conditions, of MMC Chapter 22C.020, Commercial, Industrial, Recreation, and Public Institutional Zones, is hereby amended to read as follows:

**22C.020.070 Permitted uses – Development conditions.**

- (1) Bed and breakfast guesthouses and inns are subject to the requirements and standards contained in Chapter [22C.210](#) MMC, Bed and Breakfasts.
- (2) Home occupations are subject to the requirements and standards contained in Chapter [22C.190](#) MMC, Home Occupations.
- (3) Limited to one dwelling unit for the purposes of providing on-site service and security of a commercial or industrial business. Caretaker's quarters are subject to the provisions set forth in Chapter [22C.110](#) MMC, entitled "Temporary Uses."
- (4) All units must be located above a street-level commercial use.
- (5) Twenty percent of the units, but no more than two total units, may be located on the street level of a commercial use, if conditional use permit approval is obtained and the units are designed exclusively for ADA accessibility. The street-level units shall be designed so that the units are not located on the street front and primary access is towards the rear of the building.
- (6) Permitted on the ground floor in the southwest sector of downtown vision plan area, as incorporated into the city of Marysville comprehensive plan.
- (7) Mobile homes are only allowed in existing mobile home parks established prior to October 16, 2006.
- (8) Home occupations are limited to home office uses in multifamily dwellings. No signage is permitted in townhouse or multifamily dwellings.
- (9) Permitted in a legal nonconforming or conforming residential structure.
- (10) Subject to Chapter [22C.220](#) MMC, Master Planned Senior Communities.
- (11) 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 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.
- (12) Recreational vehicle parks are subject to the requirements and conditions of Chapter [22C.240](#) MMC.
- (13) Golf Facility.
  - (a) Structures, driving ranges and lighted areas shall maintain a minimum distance of 50 feet from property lines adjoining residential zones.
  - (b) Restaurants are permitted as an accessory use to a golf course.
- (14) Shooting Range.
  - (a) Structures and ranges shall maintain a minimum distance of 50 feet from property lines adjoining residential zones;
  - (b) Ranges shall be designed to prevent stray or ricocheting projectiles or pellets from leaving the property; and
  - (c) Site plans shall include safety features of the range; provisions for reducing noise produced on the firing line; and elevations of the range showing target area, backdrops or butts.
- (15) Only in an enclosed building.
- (16) Dock and Boathouse, Private, Noncommercial.
  - (a) The height of any covered over-water structure shall not exceed 20 feet as measured from the line of ordinary high water;
  - (b) The total roof area of covered, over-water structures shall not exceed 1,000 square feet;
  - (c) The entirety of such structures shall have not greater than 50 percent of the width of the lot at the natural shoreline upon which it is located;
  - (d) No over-water structure shall extend beyond the average length of all pre-existing over-water structures along the same shoreline and within 300 feet of the parcel on which proposed. Where no such pre-existing structures exist within 300 feet, the pier length shall not exceed 50 feet;
  - (e) Structures permitted hereunder shall not be used as a dwelling; and

- (f) Covered structures are subject to a minimum setback of five feet from any side lot line or extension thereof. No setback from adjacent properties is required for any uncovered structure, and no setback from water is required for any structure permitted hereunder.
- (17) Boat Launch, Noncommercial or Private.
- (a) The city may regulate, among other factors, required launching depth, and length of docks and piers;
  - (b) Safety buoys shall be installed and maintained separating boating activities from other water-oriented recreation and uses where this is reasonably required for public safety, welfare and health; and
  - (c) All site improvements for boat launch facilities shall comply with all other requirements of the zone in which it is located.
- (18) Excluding racetrack operation.
- (19) Amusement and recreation services shall be a permitted use if they are located within an enclosed building, or a conditional use if located outside. In both instances they would be subject to the exclusion of a racetrack operation similar to other commercial zones.
- (20) Structures shall maintain a minimum distance of 100 feet from property lines adjoining residential zones.
- (21) Permitted as an accessory use; see MMC [22A.020.020](#), the definition of "Accessory use, commercial/industrial."
- (22) Only as an accessory to a gasoline service station; see retail and wholesale permitted use table in MMC [22C.020.060](#).
- (23) All processing and storage of material shall be within enclosed buildings and excluding yard waste processing.
- (24) Limited to columbariums accessory to a church; provided, that existing required landscaping and parking are not reduced.
- (25) Drive-through service windows in excess of one lane are prohibited in Planning Area 1.
- (26) Limited to columbariums accessory to a church; provided, that existing required landscaping and parking are not reduced.
- (27) All instruction must be within an enclosed structure.
- (28) Car washes shall be permitted as an accessory use to a gasoline service station.
- (29) Public Safety Facilities, Including Police and Fire.
- (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.
- (30) Outdoor storage of materials or vehicles must be accessory to the primary building area and located to the rear of buildings. Outdoor storage is subject to an approved landscape plan that provides for effective screening of storage, so that it is not visible from public right-of-way or neighboring properties.
- (31) Limited to self-service household moving truck or trailer rental accessory to a gasoline service station.
- (32) All WCFs and modifications to WCFs are subject to Chapter [22C.250](#) MMC including but not limited to the siting hierarchy, MMC [22C.250.060](#). WCFs may be a permitted use or a CUP may be required subject to MMC [22C.250.040](#).
- (33) Subject to the conditions and requirements listed in Chapter [22C.030](#) MMC.
- (34) Reserved.
- (35) A factory-built commercial building may be used for commercial purposes subject to the following requirements:
- (a) A factory-built commercial building must be inspected at least two times at the factory by the State Building and Electrical Inspector during the construction process, and must receive a state approval stamp certifying that it meets all requirements of the International Building and Electrical Codes. At the building site, the city building official will conduct foundation, plumbing and final inspections; and
  - (b) A factory-built commercial building cannot be attached to a metal frame allowing it to be mobile. All structures must be placed on a permanent, poured-in-place foundation. The

- foundation shall be structurally engineered to meet the requirements set forth in Chapter 16 of the International Building Code.
- (36) Mini-storage facilities are subject to the development standards outlined in Chapter [22C.170](#) MMC.
- (37) Except heavy equipment.
- (38) With outdoor storage and heavy equipment.
- (39) Incidental assembly shall be permitted; provided, it is limited to less than 20 percent of the square footage of the site excluding parking.
- (40) Light industrial uses may be permitted; provided, there is no outdoor storage of materials, products or vehicles.
- (41) Excluding drinking places such as taverns and bars and adult entertainment facilities.
- (42) Excluding vehicle and livestock auctions.
- (43) If the total storage capacity exceeds 6,000 gallons, a conditional use permit is required.
- (44) The retail sale of products manufactured on site shall be permitted; provided, that not more than 20 percent of the constructed floor area in any such development may be devoted to such retail use.
- (45) Limited to 5,000 square feet or less.
- (46) Eating and Drinking Places.
- (a) Limited to 4,000 square feet or less.
- (b) Drive-through service windows in excess of one lane are prohibited in Planning Area 1.
- (c) Taverns, bars, lounges, etc., are required to obtain a conditional use permit.
- (47) Limited to hardware and garden supply stores.
- (48) Limited to convenience retail, such as video, and personal and household items.
- (49) Provided there is no outdoor storage and/or display of any materials, products or vehicles.
- (50) Except slaughterhouses.
- (51) Limited to photocopying and printing services offered to the general public.
- (52) Limited to less than 10 employees.
- (53) In conjunction with an eating and drinking establishment.
- (54) Provided there is no outdoor storage and/or display of any materials, products or vehicles.
- (55) May be further subject to the provisions of city of Marysville shoreline management program.
- (56) Except weapons armories and outdoor shooting ranges.
- (57) Except outdoor shooting ranges.
- (58) Only in conjunction with an existing or proposed school.
- (59) Except racing of motorized vehicles.
- (60) Limited to land located along east side of 47th Avenue NE alignment, in the east half of the northeast quarter of Section 33, Township 30N, Range 5E, W.M., and in the northeast quarter of the southeast quarter of Section 33, Township 30N, Range 5E, W.M., and land located east side of SR 529, north of Steamboat Slough, south and west of Ebey Slough (a.k.a. TP No. 300533-002-004-00) and in the northwest and southwest quarters of Section 33, Township 30N, Range 5E, W.M., as identified in Exhibit A, attached to Ordinance No. 2452.
- (61) Opiate substitution treatment program facilities permitted within commercial zones are subject to Chapter [22G.070](#) MMC, Siting Process for Essential Public Facilities.
- (62) Opiate substitution treatment program facilities, as defined in MMC [22A.020.160](#), are subject to the standards set forth below:
- (a) Shall not be established within 300 feet of an existing school, public playground, public park, residential housing area, child-care facility, or actual place of regular worship established prior to the proposed treatment facility.
- (b) Hours of operation shall be restricted to no earlier than 6:00 a.m. and no later than 7:00 p.m. daily.
- (c) The owners and operators of the facility shall be required to take positive ongoing measures to preclude loitering in the vicinity of the facility.
- (63) Permitted uses include Whiskey Ridge zones.
- (64) Level 1 and Level 2 charging only.
- (65) The term "rapid" is used interchangeably with Level 3 and fast charging.



(66) Rapid (Level 3) charging stations are required to comply with the design and landscaping standards outlined in MMC [22C.020.265](#).

(67) Rapid (Level 3) charging stations are required to be placed within a parking garage.

(68) Excepting “marijuana (cannabis) dispensaries,” “marijuana (cannabis) collective gardens,” and “marijuana cooperatives” as those terms are defined or described in this code and/or under state law; such facilities and/or uses are prohibited in all zoning districts of the city of Marysville.

(69) No person or entity may produce, grow, manufacture, process, accept donations for, give away, or sell marijuana concentrates, marijuana-infused products, or usable marijuana within commercial, industrial, recreation, and public institution zones in the city. Provided, activities in strict compliance with RCW [69.51A.210](#) and [69.51A.260](#) are not a violation of the Marysville Municipal Code.

(70) Permitted within existing legal nonconforming single-family residences.

(71) Subject to the requirements set forth in MMC 10.04.460.\*

(72) Pet daycares are restricted to indoor facilities with limited, supervised access to an outdoor fenced yard. Overnight boarding may be permitted as a limited, incidental use. Both outdoor access and overnight boarding privileges may be revoked or modified if the facility is not able to comply with the noise standards set forth in WAC [173-60-040](#).\*

(73) Shipping/cargo and similar storage containers may be installed on commercial or industrial properties provided said containers are screened from public view pursuant to MMC 22C.120.160, Screening and impact abatement.

\*Code reviser’s note: Ord. 2985 added these subsections as (70) and (71). They have been renumbered as (71) and (72) to avoid duplicating the subsection added by Ord. 2981.

Section 14. Section 22C.020.190, Height – Exceptions to limits, of MMC Chapter 22C.020, Commercial, Industrial, Recreation and Public Institutional Zones, is hereby amended to read as follows:

**22C.020.190 Height – Exceptions to limits.**

The following structures may be erected above the height limits of MMC [22C.020.080](#)(2):

(1) Roof structures housing or screening elevators, stairways, tanks, ventilating fans or similar equipment required for building operation and maintenance; and

(2) Fire or parapet walls, skylights, chimneys, smokestacks, church steeples, flagpoles, and utility line towers and poles.

Section 15. Section 22C.130.030, Minimum required parking spaces, of MMC Chapter 22C.130, Parking and Loading, is hereby amended to read as follows:

**22C.130.030 Minimum required parking spaces.**

(1) Purpose. The purpose of required parking spaces is to provide enough parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time. As provided in subsection (2)(e) of this section, bicycle parking may be substituted for some required parking on a site to encourage transit use and bicycling by employees and visitors to the site. The required parking numbers correspond to specific land use categories. Provision of carpool parking, and locating it closest to the building entrance, will encourage carpool use.

(2) Minimum Number of Parking Spaces Required.

(a) The minimum number of parking spaces for all zones and use categories is stated in Table 1.

(b) If the parking formula used to determine parking requirements results in a fractional number greater than or equal to one-half, the proponent shall provide parking equal to the next highest whole number.

(c) Changes in Occupancy. Whenever the occupancy classification of a building is changed, the minimum standards for off-street parking for the new occupancy classification shall be applicable; provided, that if the existing occupancy had established a legal nonconforming status with respect to off-street parking requirements, no additional off-street parking shall

be required for the new occupancy unless said new occupancy is in a classification requiring more parking than that which would have been required for the existing occupancy if it had been subject to the provisions of this chapter. If strict application of this section is not feasible due to existing site conditions such as building or parcel size, shape or layout, a variance may be granted by the community development director.

(d) Joint Use Parking. Joint use of required parking spaces may occur where two or more uses on the same or separate sites are able to share the same parking spaces because their parking demands occur at different times. Joint use of required nonresidential parking spaces is allowed if the following documentation is submitted in writing to the community development department as part of a building or land use permit application, and approved by the community development director:

- (i) The names and addresses of the uses and of the owners or tenants that are sharing the parking;
- (ii) The location and number of parking spaces that are being shared;
- (iii) An analysis showing that the peak parking times for the uses occur at different times and that the parking area will be large enough for the anticipated demands of both uses; and
- (iv) A legal instrument such as an easement or deed restriction that guarantees access to the parking for both uses.

The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within 500 feet of such parking facilities.

(e) Bicycle parking may substitute for up to 10 percent of required parking. For every five nonrequired bicycle parking spaces that meet the bicycle parking standards in MMC [22C.130.060](#), the motor vehicle parking requirement is reduced by one space.

Existing parking may be converted to take advantage of this provision.

(f) The off-street parking and loading requirements of this chapter do not apply retroactively to established uses; however:

- (i) The site to which a building is relocated must provide the required spaces; and
- (ii) A person increasing the floor area, or other measure of off-street parking and loading requirements, by addition or alteration, must provide spaces as required for the increase, unless the requirement under this subsection is five spaces or fewer.

(g) Reduction of Required Spaces When Effective Alternatives to Automobile Access Are Proposed. Upon demonstration to the hearing examiner that effective alternatives to automobile access are proposed to be implemented, the examiner may reduce by not more than 40 percent the parking requirements otherwise prescribed for any use or combination of uses on the same or adjoining sites, to an extent commensurate with the permanence, effectiveness, and demonstrated reduction in off-street parking demand achieved by such alternative programs. Alternative programs which may be considered by the examiner under this provision include, but are not limited to, the following:

- (i) Private vanpool operation;
- (ii) Transit/vanpool fare subsidy;
- (iii) Imposition of a charge for parking;
- (iv) Provision of subscription bus services;
- (v) Flexible work-hour schedule;
- (vi) Capital improvement for transit services;
- (vii) Preferential parking for carpools/vanpools;
- (viii) Participation in the ride-matching program;
- (ix) Reduction of parking fees for carpools and vanpools;
- (x) Establishment of a transportation coordinator position to implement carpool, vanpool, and transit programs; or
- (xi) Bicycle parking facilities.

(h) Reduction of Required Spaces in Downtown Vision Plan Area. Commercial uses within the downtown core, southwest sector, southeast sector, and waterfront sector may reduce the number of required off-street parking spaces in accordance with this section, upon demonstration to the community development department that the proposed use is in

conformance with the downtown master plan guidelines as set forth in the comprehensive plan. Expansion of existing commercial buildings and uses is required to demonstrate conformance with the city's design standards and guidelines or to incorporate reasonable measures to meet the intent of the guidelines for existing uses. For commercial uses requiring less than 10 spaces, the parking requirements may be waived by the director. For required parking in excess of 10 spaces, the applicant must demonstrate that adequate on-street parking facilities exist within 400 feet of the proposed use in order to qualify for a reduction. Parking may be reduced by up to 50 percent if consistent with the downtown master plan guidelines. In approving a reduction to required off-street parking, the department may require improvement of existing right-of-way to meet the intent of this code and the downtown master plan in providing improved parking, walkways and access to the business.

(i) Uses Not Mentioned. In the case of a use not specifically mentioned in Table 1: Minimum Required Parking Spaces, the requirements for off-street parking shall be determined by the community development director. If there are comparable uses, the community development director's determination shall be based on the requirements for the most comparable use(s). Where, in the judgment of the community development director, none of the uses in Table 1: Minimum Required Parking Spaces are comparable, the community development director may base his or her determination as to the amount of parking required for the proposed use on detailed information provided by the applicant. The information required may include, but not be limited to, a description of the physical structure(s), identification of potential users, and analysis of likely parking demand.

(3) Carpool Parking. For office, industrial, and institutional uses where there are more than 20 parking spaces on the site, the following standards must be met:

(a) Five spaces or five percent of the parking spaces on site, whichever is less, must be reserved for carpool use before 9:00 a.m. on weekdays. More spaces may be reserved, but they are not required.

(b) The spaces will be those closest to the building entrance or elevator, but not closer than the spaces for disabled parking and those signed for exclusive customer use.

(c) Signs must be posted indicating these spaces are reserved for carpool use before 9:00 a.m. on weekdays.

**Table 1: Minimum Required Parking Spaces**

LAND USE	MINIMUM REQUIRED SPACES
<b>RESIDENTIAL USES</b>	
Single-family dwellings, duplexes, townhouses, and mobile homes	2 per dwelling <u>unit for residents plus one additional guest parking space per dwelling unit</u> ; provided: 1. <del>One guest parking space is required per unit, where a</del> An enclosed private garage <del>is</del> <u>may be</u> utilized to meet the required parking <u>for residents</u> . Driveways can be counted as <u>resident or a-guest parking spaces</u> , provided said driveway complies with the bulk and dimensional requirements outlined in Table 2; and 2. Parking spaces behind other required parking spaces (a.k.a. "tandem parking") shall not be counted towards the 2 required parking spaces <del>per dwelling for the residents in a development</del> ; however, tandem parking can be counted as a guest parking space <del>, when required</del>
Accessory dwelling units	1 space per dwelling unit
Multiple-family dwellings, one bedroom per unit	1.5 per dwelling unit. Parking spaces behind other required parking spaces (a.k.a. "tandem parking") shall not be counted towards the 2 required parking spaces in a multifamily development; however, tandem parking can be counted as a guest parking space, when required
Multiple-family dwellings, two or	1.75 per dwelling unit. Parking spaces behind other required

**Table 1: Minimum Required Parking Spaces**

<b>LAND USE</b>	<b>MINIMUM REQUIRED SPACES</b>
more bedrooms	parking spaces (a.k.a. "tandem parking") shall not be counted towards the 2 required parking spaces in a multifamily development; however, tandem parking can be counted as a guest parking space, when required
Retirement housing and apartments	1 per dwelling
Mobile home parks	2 per unit, plus guest parking at 1 per 4 lots
Rooming houses, similar uses	1 per dwelling
Bed and breakfast accommodations	1 space for each room for rent, plus 2 spaces for the principal residential use
<b>RECREATIONAL/CULTURAL USES</b>	
Movie theaters	1 per 4 seats
Stadiums, sports arenas and similar open assemblies	1 per 8 seats or 1 per 100 SF of assembly space without fixed seats
Dance halls and places of assembly w/o fixed seats	1 per 75 SF of gross floor area
Bowling alleys	5 per lane
Skating rinks	1 per 75 SF of gross floor area
Tennis courts, racquet clubs, handball courts and other similar commercial recreation	1 space per 40 SF of gross floor area used for assembly, plus 2 per court
Swimming pools (indoor and outdoor)	1 per 10 swimmers, based on pool capacity as defined by the Washington State Department of Health
Golf courses	4 spaces for each green, plus 50% of spaces otherwise required for any accessory uses (e.g., bars, restaurants)
Gymnasiums, health clubs	1 space per each 200 SF of gross floor area
Churches, auditoriums and similar enclosed places of assembly	1 per 4 seats or 60 lineal inches of pew or 40 SF gross floor area used for assembly
Art galleries and museums	1 per 250 SF of gross floor area
<b>COMMERCIAL/OFFICE USES</b>	
Banks, business and professional offices (other than medical and dental) with on-site customer service	1 per 400 SF gross floor area
Retail stores and personal service shops unless otherwise provided herein	If < 5,000 SF floor area, 1 per 600 SF gross floor area; if > 5,000 SF floor area, 8 plus 1 per each 300 SF gross floor area over 5,000 SF
Grocery stores	1 space per 200 SF of customer service area
Barber and beauty shops	1 space per 200 SF
Motor vehicle sales and service	2 per service bay plus 1 per 1,000 SF of outdoor display

**Table 1: Minimum Required Parking Spaces**

<b>LAND USE</b>	<b>MINIMUM REQUIRED SPACES</b>
Motor vehicle or machinery repair, without sales	2 plus 2 per service bay
Mobile home and recreational vehicle sales	1 per 3,000 SF of outdoor display area
Motels and hotels	1 per unit or room
Restaurants, taverns, bars with on-premises consumption	If < 4,000 SF, 1 per 200 SF gross floor area; if > 4,000 SF, 20 plus 1 per 100 SF gross floor area over 4,000 SF
Drive-in restaurants and similar establishments, primarily for auto-borne customers	1 per 75 SF of gross floor area. Stacking spaces shall be provided in accordance with Chapter <a href="#">22C.140</a> MMC, Drive-Through Facilities
Shopping centers	If < 15,000 SF, 1 per 200 SF of gross floor area; if > 15,000 SF, 1 per 250 SF of gross floor area
Day care centers	1 space per staff member and 1 space per 10 clients. A paved unobstructed pick-up area shall be set aside for dropping off and picking up children in a safe manner that will not cause the children to cross the parking area or lines of traffic
Funeral parlors, mortuaries or cemeteries	1 per 4 seats or 8 feet of bench or pew or 1 per 40 SF of assembly room used for services if no fixed seating is provided
Gasoline/service stations w/grocery	1 per employee plus 1 per 200 SF gross floor area
Adult facilities as defined by MMC <a href="#">22A.020.020</a>	1 per 75 SF of gross floor area or, in the case of an adult drive-in theater, 1 per viewing space
<b>HEALTH SERVICES USES</b>	
Nursing homes, convalescent homes for aged	1 per 5 beds plus 1 space per employee and medical staff
Medical and dental clinics	1 per 200 SF gross floor area
Hospitals	1 per 2 beds, excluding bassinets
<b>EDUCATIONAL USES</b>	
Elementary, junior high schools (public and private)	5 plus 1 per each employee and faculty member
Senior high schools (public and private)	1 per each 10 students plus 1 per each employee or faculty member
Commercial/vocational schools	1 per each employee plus 1 per each 2 students
<b>PUBLIC/GOVERNMENT USES</b>	
Public utility and governmental buildings	1 per 400 SF of gross floor area
Libraries	1 per 250 SF of gross floor area
<b>MANUFACTURING/WAREHOUSE USES</b>	
Manufacturing and industrial uses of all types, except a building	One per 500 SF of gross floor area plus 1 per each 2 employees on maximum working shift

**Table 1: Minimum Required Parking Spaces**

LAND USE	MINIMUM REQUIRED SPACES
used exclusively for warehouse purposes	
Warehouses, storage and wholesale businesses	1 per each 2 employees on maximum working shift
Mini self-storage	1 per each 50 storage cubicles equally distributed and proximate to storage buildings. In addition, 1 space for each 50 storage cubicles to be located at the project office

Section 16. Section 22C.160.080, Exemptions, of MMC Chapter 22C.160, Signs, is hereby amended to read as follows:

### **22C.160.080 Exemptions.**

The following signs are exempted from obtaining a sign permit, but must comply with all other requirements of this chapter and with the specific requirements set forth below for each type of sign:

- (1) A change in the face of the sign or advertising copy of an existing, legally permitted, sign.
- (2) Temporary and special event signs meeting the requirements of MMC [22C.160.230](#).
- (3) On-premises and portable commercial or real estate signs meeting the requirements of MMC [22C.160.230](#)(5) and (6).
- (4) Political signs meeting the requirements of MMC [22C.160.230](#)(7).
- (5) Nonelectric signs not exceeding four square feet per face, which are limited in content to the name of occupant and address of the premises in a residential zone.
- (6) Instructional signs, not exceeding six square feet per sign; provided, that foundation, anchorage, attachments and other structural support of the sign and electrical connection require construction permits.
- (7) Menu signs. Foundation, anchorage, attachments and other structural support of the sign and electrical connection require construction permits.
- (8) Seasonal decorations. Reasonable seasonal decorations within an appropriate holiday season or during a festival are exempt from this section as long as such displays are removed promptly at the end of the holiday season or festival.
- (9) Sculptures, fountains, benches, lighting, mosaics, murals, landscaping and other street furniture and design features, which do not incorporate advertising or identification.
- (10) Signs not visible from public way. Exterior and interior signs or displays not intended to be visible from streets or public ways, signs in the interior of a building more than three feet from the closest window and not facing a window, window displays and point of purchase advertising displays such as vending machines.
- ~~(11) The flag, emblem or insignia of a nation or other governmental unit or nonprofit organization, subject to the guidelines concerning their use set forth by the government or organization which they represent. Flag poles require a construction permit for structural review.~~
- ~~(11)2~~ Traffic or other municipal signs, signs required by law or emergency services, railroad crossing signs, legal notices, and any temporary signs specifically authorized by the city council or authorized under policies and procedures adopted by the city council.
- ~~(12)3~~ Signs of public utility companies indicating danger or which serve as an aid to public safety or which show the location of underground facilities or of public telephones.
- ~~(13)4~~ Memorial signs or tablets, names of buildings, stained glass windows and dates of erection when cut into the surface of the facade of the building or when projecting not more than two inches.
- ~~(14)5~~ Incidental signs, including, but not limited to, "no trespassing," "no dumping," "no parking," "private," signs identifying essential public needs (i.e., restrooms, entrance, exit, telephone, etc.) and other information warning signs, which shall not exceed three square feet in surface area.

(1546) Flush-mounted wall signs which are used to identify the name and address of the occupant for each dwelling, provided the sign does not exceed two square feet in sign area.  
 (1647) Gateway entrance signs. Gateway entrance signs that comply with the city of Marysville gateway master plan. Foundation, anchorage, attachments and other structure support of the sign and electrical connection require construction permits.

Section 17. Section 22G.080.100, Open spaces, of MMC Chapter 22G.080, Planned Residential Developments, is hereby amended to read as follows:

**22G.080.100 Open spaces**

- (1) A minimum of 15 percent of the net project area shall be established as open space. Critical areas and buffers may be used to satisfy a maximum of 65% of the required open space. Parking areas, driveways, access streets and required yards are not considered to be open space for purposes of this section. ~~Critical areas and buffers may be used to satisfy up to 10 percent of this requirement.~~ Fencing and/or landscaping shall separate, while maintaining visual observability of, recreation areas from public streets, parking areas and driveways.
- (2) Open space and recreational facilities shall be owned, operated and maintained in common by the PRD property owners; provided, that by agreement with the city council, open space may be dedicated in fee to the public.
- (3) The open space requirement may be reduced if substantial and appropriate recreational facilities (such as recreational buildings, swimming pools or tennis courts) are provided. If an open space reduction is proposed, detailed plans showing the proposed recreational facilities must be submitted with the preliminary site plan.
- (4) Open space excluding critical areas and buffers shall:
  - (a) Be of a grade and surface suitable for recreation;
  - (b) Be on the site of the proposed development;
  - (c) Be one continuous parcel if less than 3,000 square feet in size, not to be located in the front yard setback;
  - (d) Have no dimensions less than 30 feet (except trail segments);
  - (e) Be situated and designed to be observable by the public; and
  - (f) Be accessible and convenient to all residents within the development.

Section 18. Section 22A.010.160, Amendments, of MMC Chapter 22A.010, General Administration, is hereby amended as follows by adding reference to this adopted ordinance in order to track amendments to the City's Unified Development Code:

**"22A.010.160 Amendments.**

The following amendments have been made to the UDC subsequent to its adoption:

<u>Ordinance</u>	<u>Title (description)</u>	<u>Effective Date</u>
_____	2016 Code Clean-Up Amendments	_____, 2017"

Section 19. Severability. If any section, subsection, sentence, clause, phrase or work of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

Section 20. Effective Date. This ordinance shall become effective five days after the date of its publication by summary.

PASSED by the City Council and APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

CITY OF MARYSVILLE

By: \_\_\_\_\_  
JON NEHRING, MAYOR

Attest:

By: \_\_\_\_\_  
APRIL O'BRIEN, DEPUTY CITY CLERK

Approved as to form:

By: \_\_\_\_\_  
JON WALKER, CITY ATTORNEY

Date of Publication: \_\_\_\_\_

Effective Date: \_\_\_\_\_  
(5 days after publication)



**From:** roumx@comcast.net  
**Sent:** Monday, February 27, 2017 9:59 AM  
**To:** Angela Gemmer  
**Subject:** Fwd: Please review before scheduling a meeting.

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

I sent this from a different email. I forwarded this email to roumx in order to keep accurate records. The email was from me to Mr. Koenig. I think it is the last one.

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**From:** epkservices@comcast.net  
**To:** roumx@comcast.net  
**Sent:** Friday, October 28, 2016 7:12:33 AM  
**Subject:** Fwd: Please review before scheduling a meeting.

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**From:** epkservices@comcast.net  
**To:** dkoenig@marysvillewa.gov  
**Sent:** Tuesday, August 30, 2016 12:32:37 PM  
**Subject:** Please review before scheduling a meeting.

City of Marysville Community Development  
 To: David Koenig

I was unable to locate a definition of a flagpole or flag pole in the definitions for Chapter 22, except that 2a.020.020 indicates that Flag poles are an accessory structure. Based on 22c.160.080 and 22a.020.200 one would conclude that a flagpole is a part of a flag sign.

Simple Definition of flagpole

A tall pole from which a flag hangs: a pole used to display a flag

Full definition of flagpole

A pole on which to raise a flag.

Source: Merriam-Webster's Learner's Dictionary

If a search for "flagpole" or "flag pole" is listed in the search area of the municipal code, the search results show flagpole under F. I was not able to find a definition of flagpole in the F list, but there is a definition of Freestanding Sign at the end of the F section. "Freestanding sign" means a sign on a frame, pole, or other support structure that is not attached to any building. If a flag is a sign, a flagpole with a flag would appear to be a Freestanding sign, a pole sign or a pylon sign. 22c.160.080 indicates that a flag is a sign and a sign includes the sign structure (22a.020.200).

22a.020.200 and 22c.160.080 are contradictory. One states that a flag is not a sign and one states that a flag is a sign.

The following material would be helpful to have available at the meeting when responding to my questions.

Definitions

Sign

Freestanding sign

Pole sign

Pylon sign

Flag Pole

Flag

Accessory structure

Exempt sign

Non exempt sign

Internal property line

I was unable to locate definitions for several of these items in the definitions sections. Most are defined in sections of 22a and c.

Sections

22a.020.200 Sign

22c.160.080

22c.160.150 numbers 1, 4, and 6.

22.160.070 number 9

22a.020.020 Accessory structure

22c.160.170

22c.160.230

22a.020.070 Pole sign and pylon sign.

Sincerely yours,

Evan Kaiser 425-309-7028



**From:** roumx@comcast.net  
**Sent:** Monday, February 27, 2017 9:30 AM  
**To:** Angela Gemmer  
**Subject:** Fwd: Flagpole

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

additional emails

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**From:** "David Koenig" <dkenig@marysvillewa.gov>  
**To:** roumx@comcast.net  
**Sent:** Monday, October 17, 2016 9:06:17 AM  
**Subject:** RE: Flagpole

Last week a code enforcement officer went out to talk to the owner of the flag pole you complained about. When they arrived the pole was reduced in size to 4 to 5 feet, they estimate, and there was no flag being flown or set up for a flag. Based on this observation the pole is not being used as a flag pole and is reduced in height. I am having them look at it again.

The observation last week showed no violation of the code.

Dave Koenig

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**From:** roumx@comcast.net [mailto:roumx@comcast.net]  
**Sent:** Tuesday, October 11, 2016 7:59 AM  
**To:** David Koenig <dkenig@marysvillewa.gov>  
**Subject:** Flagpole

City of Marysville Washington  
 To: Community Development Director  
 David Koenig

After talking with you on 10-7-2016, I filed a complaint about the flagpole. Is this complaint handled by you personally or Code Enforcement or some other department or individual? Have you determined that a construction permit for structural review was or was not issued to 2914 73<sup>rd</sup> Ave NE? You indicated that there are many complaints that need to be processed and which typically take 2 to 3 weeks to complete. This complaint was accepted by you on 9-7-2016, and I understand that some things take longer than typical estimates. Can you estimate when the city might determine whether this flagpole violates several MMC codes and when the violators of these regulations will be notified? If a violation is determined, how soon will the city request abatement? I would like to be notified by email, as each step in this process is completed. I understand that the enforcement of the codes can be contested by violators of the codes.

After reviewing many sections of the MMC, I am not clear about the notification process for suspected violations.

Can the city be notified verbally that a citizen suspects a violation of the MMC?

If verbally notified, must the proper department investigate the suspected violation?

Must a citizen complaint be filed in order for the city to investigate a possible violation of the MMC?

The MMC comments place the responsibility of correcting violations on the directors of any department of the city, or such other head of a department that is authorized to utilize the provisions of this title to enforce violations of the MMC, and shall include any duly authorized representative of such director. Once the city is notified of a possible violation (verbally or by a citizen complaint form) is there any regulation that addresses how soon an investigation and corrective action should be taken by the city?

Based on further research, I have concluded that if this flagpole violates any land use or zoning regulation listed under chapter 22, or chapter 16, then this flagpole should also be considered to be a public nuisance. This last sentence is based on MMC 4.02.020 (7) (c). If this flagpole lacks a construction permit for structural review or violates the side yard set back, or any other section of MMC 22 or MMC16 would this flagpole be a public nuisance?

Thank you,

Evan Kaiser

**From:** roumx@comcast.net  
**Sent:** Monday, February 27, 2017 9:32 AM  
**To:** Angela Gemmer  
**Subject:** Fwd: MMC

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

additional emails

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**From:** "David Koenig" <dkenig@marysvillewa.gov>  
**To:** roumx@comcast.net  
**Cc:** "Chris Holland" <CHolland@marysvillewa.gov>, "Deryck McLeod" <deryck.mcleod@marysvillewa.gov>, "Elizabeth Chamberlin" <echamberlin@marysvillewa.gov>  
**Sent:** Monday, October 17, 2016 11:32:56 AM  
**Subject:** RE: MMC

I am answering your email on behalf of the Department. The answers are below highlighted in yellow.

**Dave Koenig** | Community Development Director

**CITY OF MARYSVILLE**  
 Community Development Department  
 80 Columbia Avenue  
 Marysville, WA 98270

360-363-8100 Office  
 360-363-8211 Direct Line  
 360-651-5099 Fax

[dkenig@marysvillewa.gov](mailto:dkenig@marysvillewa.gov)  
<http://marysvillewa.gov>

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**From:** [roumx@comcast.net](mailto:roumx@comcast.net) [mailto:roumx@comcast.net]  
**Sent:** Tuesday, October 11, 2016 8:04 AM  
**To:** Deryck McLeod <deryck.mcleod@marysvillewa.gov>  
**Subject:** MMC

City of Marysville Washington  
 To: Code Enforcement  
 Code Enforcement Officer Deryck McLeod

On 10-7-2016, I indicated to you that I had some questions about some of the statements in the MMC.

The following comments pertain to Chapter 4 of the MMC. I try to logically interpret these sections as they are written. I have been told that the city can determine their own regulations, which may contradict the state's regulations. I would like clarification of the following sections, which I believe are either in error or which may result in unintended interpretations. I am not attempting to nitpick your regulations. I am not asking for a legal interpretation. I want to know how your department would interpret these sections of the MMC. If you are not able to respond to these matters, please forward this email to the proper department or individual that can respond. Upon receipt of this email, please

email me an estimate of when I might expect a response to these items. I would like the responses to be by email.

#### 4.02.020 Definitions.

(7) "Public nuisance" means the following:

- (a) A nuisance or public nuisance as defined in state statute or city ordinance, including but not limited to Chapter 7.48 RCW and Chapters 6.24, 6.25 and 7.04 MMC;
- (b) A nuisance at common law, either public or private;
- (c) A violation of the city's land use, zoning, and environmental regulations (MMC Title 22), construction code regulations (MMC Title 16),

(a) Is there a section 7.04 of the MMC?

The municipal code on line is the code. Where the numbering system skips around means there is no code section like 7.04 does not exist. I do not know the full history, but sections of the code at times are repealed or the original numbering system leaves areas where code can be added.

Title 7 begins with 7.05

HEALTH AND SANITATION<sup>1</sup>

Chapters:

7.05 Camping

(b) "Public nuisance" means the following: A nuisance at common law, either public or private.

This sentence would classify a private nuisance at common law as a public nuisance. Is a private nuisance at common law a public nuisance? Is there a definition of a nuisance at common law in the MMC? If not, please provide the definition of this term used by your department.

Public Nuisance is defined in code @ MMC 4.02.020

#### 4.02.030 Citizen complaints.

(1) Written Complaint/Notice to Owner. The second sentence in this section states:

*"The citizen complaint process shall not apply to actions for which there are administrative and/or judicial appeals provided for in this title or other titles, chapters or sections of the MMC."*

Based on this sentence, I would conclude that: The Citizen complaint process (shall not apply) is not applicable or allowed to actions for which there are administrative and/or judicial appeals provided for in this title (which is Chapter 4.02) or other titles, chapters or sections of the MMC.

I often have to review the meaning of words. Based on my research, the word "action" has many meanings, but the following definitions appear to be applicable to this sentence.

1. the initiating of a proceeding in a court of justice by which one demands or enforces one's right; *also* : the proceeding itself
1. the bringing about of an alteration by force or through a natural agency

Perhaps I am confused, but section (4) indicates that the hearing examiner's decision can be appealed to the Snohomish County Superior Court. If an administrative and/or judicial appeal is possible, the second sentence in section (1) states that the citizen complaint process shall not apply. If the citizen complaint process shall not apply, why file a citizen complaint? Please clarify this matter.

When we make decisions about land use applications or other permits there is an appeal procedure for these actions separate from code enforcement. The Code Enforcement process is not the process to review the decisions or actions related to permits which are consistent with the MMC. One example is if a building permit is issued and is built to code. This is not an action which is a code enforcement action, if someone complains about the project. But if someone does not build a project in a timely manner and it is left open not completed this type of project could be a code enforcement action.

The last sentence in this part of Section (1) states that: *A copy of the complaint shall be promptly mailed to the property owner of the subject property via first class and certified (return receipt requested) mail.* Does the city mail this copy?

We have door hangers and visit directly before we sent out a certified letter. When we do mail certified letters as necessary to get compliance.

The following appears on your website under Code Enforcement Description.

#### Code Enforcement

*The city's code enforcement officer enforces the chapters of the Marysville Municipal Code that address public health and safety issues. The Code Enforcement officer investigates allegations that arise from citizen complaints and works with homeowners to remedy these conditions*

The first sentence clearly states that the code enforcement officer enforces the chapters of the MMC that address public health and safety issues. To me this indicates that the code enforcement officer enforces only the chapters of the MMC that address public health and safety issues. Is my statement correct? If so, who enforces all of the other chapters of the MMC?

Code enforcement is involved with a variety of complaints and if not code enforcement then others get involved or a team action. An example is operating a business without a license. This is an issue that Planning staff and code enforcement would get involved with enforcing. Complaints about Native Growth Protection Areas would get Planning involved. Police are involved with complaints of vehicles in the right of way which are abandoned etc.

The second sentence indicates that the Code Enforcement officer investigates allegations that arise from citizen complaints and works with homeowners to remedy these conditions. I believe that this sentence states that any citizen complaint will be investigated by the Code Enforcement officer. Is my belief correct? How does the Code Enforcement officer work with homeowners to remedy these conditions? If the code enforcement officer enforces only those that address public and safety issues what process does the code enforcement officer use to remedy these conditions?

Code enforcement responds to complaints to see if the issues are a code violation. One recent one we had a complaint about someone building in a stream corridor and when the code enforcement officer went to review this it turned out someone was building a small shed which was not a violation. We do review all complaints which are submitted to us.

Title 7 pertains to Health and Sanitation, but I am unable to locate a title that pertains to safety issues. Is there a title or chapter of the MMC that pertains to safety issues?

"Public Health, Safety, and General Welfare are legal terms used for review of land use applications like subdivisions, etc. The safety is to make sure the projects are built to standards which are designed to be safe. This would include building permits, subdivisions of land with retaining walls, etc. The safety considerations are within the code themselves like the building code or critical areas rules.

Must a citizen complaint form be filed in order for the code enforcement officer to investigate any allegation of the violation of any MMC?

We recommend that citizens fill out complaint forms either on line or on available forms



Thank you,  
Evan Kaiser

**From:** roumx@comcast.net  
**Sent:** Monday, February 27, 2017 9:33 AM  
**To:** Angela Gemmer  
**Subject:** Fwd: 2914 73rd Ave NE  
**Attachments:** 001.jpg

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

additional emails

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**From:** "David Koenig" <dkenig@marysvillewa.gov>  
**To:** roumx@comcast.net  
**Sent:** Monday, October 17, 2016 6:07:03 PM  
**Subject:** Fw: 2914 73rd Ave NE

Evan

The attached picture is from today. No change from last week.

Dave Koenig

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**From:** Deryck McLeod  
**Sent:** Monday, October 17, 2016 2:17:29 PM  
**To:** David Koenig  
**Cc:** Chris Holland  
**Subject:** 2914 73rd Ave NE

Taken today...

Deryck

**From:** roumx@comcast.net  
**Sent:** Monday, February 27, 2017 9:26 AM  
**To:** Angela Gemmer  
**Subject:** Fwd: Several

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

To: Angela Gemmer

I will have to forward each of the emails to you. All of the emails pertain to the letter that I gave to Gloria Hirashima on 11-8-2016 and her response to this letter dated 11-18-2016. She should have a copy of all of the emails that I gave to her at our meeting on 11-8-2016. I believe that the emails that I am sending to you are the ones that I gave to her. This email is just the first, which includes my email and Mr. Koenig's response.

Evan Kaiser

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**From:** "David Koenig" <dkoenig@marysvillewa.gov>  
**To:** roumx@comcast.net  
**Sent:** Friday, November 4, 2016 4:13:25 PM  
**Subject:** RE: Several

Evan

An enforcement letter has been sent to James and Christine Henkelman @ 2914 73RD AVE NE on the flag pole this week. We asked that they contact us to get a permit for their flag pole. Regarding visits, we visited the site on October 17 and I sent the picture to you on that date. We also visited the site the previous week. Both of those visits the flag pole was lowered and had no flags on it. I communicated to you that the lowered pole was not a code violation. We visited the site before these two visits and I communicated this to you verbally. My email to you on Oct 17 answered the questions you sent in my mind.

We have never had a complaint about a flag pole. I spent some time reviewing the code and asking staff what was the intent of the code when written. We have a big workload and get to items as we can balancing various work items.

Regarding the noise from the pole. Have you talked to your neighbor about this? This would be the quickest way to solve your noise issue. We encourage people to work out issues with their neighbors like noise from a flag pole.

Dave Koenig

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**From:** roumx@comcast.net [mailto:roumx@comcast.net]  
**Sent:** Friday, October 28, 2016 8:39 AM  
**To:** David Koenig <dkoenig@marysvillewa.gov>  
**Subject:** Several

City of Marysville Community Development Department  
 To: David Koenig

10-28-2016

RE: Flagpole at 2914 73 Ave NE

On 9-7-2016 we met and discussed that the location of this flag pole might violate the set back requirement for accessory structures. You indicated at that time that if the set back requirement was violated that this flagpole would be removed from the present location. You indicated that I need not file a complaint and that you would handle this matter. Since then I filed a complaint and indicated that several more MMCs are violated by the presence of this flagpole. You indicated that complaints are generally handled in 2 to 3 weeks. As of Wednesday 10-28-2016 seven weeks have passed since our meeting.

I indicated that I would like to be advised of the progress of the processing of this complaint. On 10-7-2016 you indicated that a photograph of this flagpole had been taken. On 10-17-2016 you indicated that other inspections of this flagpole had been completed. Please supply me with the dates of all of the inspections that were completed.

Verifying whether a construction permit was issued to this property for a flagpole would have required very little time or effort. Was a construction permit for this flagpole issued prior to 9-7-2016? This flagpole was installed in 2016.

On 10-17-2016 at 9:06AM you responded to my email dated 10-11-2016. Please review my email and please answer the questions that you did not respond to.

I believe that the location of this flagpole and the fact that this flagpole was installed without a construction permit violate several MMCs. Do you intend to keep me informed as to the progress of my complaint and do you intend to enforce any violations of the MMCs? Based on your inspections, what have you concluded and what steps have you taken towards resolving these violations?

Due to the lack of any effective response from you and the noise nuisance that this flapping flag produces, my wife felt compelled to file another complaint. Please treat my complaint and her complaint as two separate complaints and do not notify me about the progress of her complaint. Please supply me with the case number assigned to my complaint.

Please notify me by email that you have received this email and when I might expect a response to this email.

Thank you,

Evan Kaiser



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

## MEMORANDUM

**DATE:** January 5, 2017

**TO:** Planning Commission

**FROM:** Angela Gemmer, Senior Planner

**RE:** 2016-17 Code Amendments: DRAFT Amendment 7 – flags and flagpoles

**CC:** Dave Koenig, Community Development Director  
 Chris Holland, Planning Manager  
 Cheryl Dungan, Senior Planner  
 Amy Hess, Associate Planner

The following are proposed amendments pertaining to flags and flagpoles that are part of the overall 2016-17 amendments to the Marysville Municipal Code (MMC) – primarily Title 22C, *Land Use Standards*. The need for these amendments arose from a citizen-initiated code enforcement concern pertaining to the proximity of a flagpole to a property line (please see the attached public comments).

During review of the concern, the question arose whether the height and setback requirements applicable to accessory structures such as garages and sheds should apply to flagpoles since the MMC definition of accessory structures identifies flagpoles as a type of accessory structure. An “accessory structure” is defined in MMC 22A.020.020, as follows:

“Accessory structure” means a structure of secondary importance or function on a site. In general, the primary use of the site is not carried on in an accessory structure.

- (1) Accessory structures may be attached or detached from the primary structure.
- (2) Examples of accessory structures include:
  - (a) Garages;
  - (b) Decks;
  - (c) Fences;
  - (d) Trellises;
  - (e) Flagpoles;
  - (f) Stairways;
  - (g) Heat pumps;
  - (h) Awnings; and
  - (i) Other structures.

Since the MMC is mainly silent of accessory structures such as trellises, flagpoles, heat pumps, awnings, and other structures, staff had difficulties identifying how flagpoles should be treated in regards to height and setbacks. Ultimately, due to the fact that the code is mostly silent regarding flagpoles, staff decided that they should be required to comply with the provisions of [MMC Chapter 22C.180 Accessory Structures](#). These provisions require flagpoles not to exceed 20’ in height and be setback a minimum of 5’ from the side and rear lot lines and

provide the minimum required front yard setback for principal structures in the zone (20', but can be reduced to 10' on a case-by-case basis).

When MMC Chapter 22C.180 *Accessory Structures* was adopted, the provisions of the code were intended for such uses as garages, sheds, carports and accessory dwelling units. Therefore, staff decided to research potential amendments related to flags and flagpoles.

In considering amendments to the MMC, staff researched the regulations for numerous jurisdictions throughout the State of Washington and found that most every jurisdictions' code was silent on flags and flagpoles with the exception of the City of Spokane. The proposed amendments are adapted from Spokane's regulations, and incorporate other revisions identified by staff to clarify the applicable standards. These amendments resolve the location and height standards applicable to flagpoles, and provide clarification on aspects of the sign code that pertain to flags.

## **Amendment 7**

### **Suggested code amendments:**

#### **DEFINITIONS**

##### **22A.020.070 "F" definitions.**

**Option 1:** "Flagpole" a tall pole from which a flag hangs

**Option 2:** "Flagpole" means a tall pole on which a flag is or can be displayed; OR

**Option 3:** "Flagpole" means a staff or pole on which a flag is or can be displayed.

##### **22A.020.200 "S" definitions.**

"Sign" means any device, fixture, or placard that is visible from a public right-of-way or surrounding properties and uses graphics, symbols, logos, or written copy conveying a message or image and used to inform or attract the attention of the public, such as advertising or identifying an establishment, product, goods, service or activity. A sign may have multiple faces and advertise multiple on-premises establishments, businesses, products, services, or activities. This definition does not include any flag of any country, state or local jurisdiction. Unless the context clearly provides to the contrary, a "sign" as used in this chapter also includes the "sign structure."

#### **RESIDENTIAL ZONES**

##### **22C.010.220 Height – Exceptions to limits.**

The following structures may be erected above the height limits of MMC [22C.010.080](#):

- (1) Roof structures housing or screening elevators, stairways, tanks, ventilating fans or similar equipment required for building operation and maintenance; and
- (2) Fire or parapet walls, skylights, chimneys, smokestacks, church steeples, and utility line towers and poles.
- (3) Flagpoles and other similar items with a width, depth or diameter of five feet or less may rise ten feet above the height limit, or five feet above the highest point of the roof, whichever is greater. If these items are greater than five feet in width, depth or diameter, they are subject to the height limit.

**22C.010.210 Setbacks – Projections allowed.**

Projections may extend into required setbacks as follows:

- (1) Fireplace structures including eaves and factory-built garden or bay windows may project into any setback, provided such projections are:
  - (a) Limited to two per facade;
  - (b) Not wider than 10 feet; and
  - (c) Not more than 24 inches into a side setback or 30 inches into a front or rear setback;
- (2) Uncovered porches and decks, including stairs, which exceed 30 inches above the finished grade may project:
  - (a) Eighteen inches into side setbacks; and
  - (b) Five feet into the front or rear setback;
- (3) Uncovered porches and decks not exceeding 30 inches above the finished grade, and uncovered accessory structures such as flagpoles, lamp posts, signs, radio antennas and dishes, mechanical equipment, play structures, and tennis courts, may project to the property line, provided that flags shall not be displayed in a manner that would cause the flag to encroach onto a neighboring property;
- (4) Eaves may not project more than:
  - (a) Twenty-four inches into a side setback;
  - (b) Thirty-four inches into a front or rear setback; or
  - (c) Eighteen inches across a lot line in a zero lot line development.

**COMMERCIAL ZONES****22C.020.190 Height – Exceptions to limits.**

The following structures may be erected above the height limits of MMC [22C.020.080](#)(2):

- (1) Roof structures housing or screening elevators, stairways, tanks, ventilating fans or similar equipment required for building operation and maintenance; and
- (2) Fire or parapet walls, skylights, chimneys, smokestacks, church steeples, flagpoles and utility line towers and poles.

**SIGN CODE****22C.160.080 Exemptions.**

The following signs are exempted from obtaining a sign permit, but must comply with all other requirements of this chapter and with the specific requirements set forth below for each type of sign:

- (1) A change in the face of the sign or advertising copy of an existing, legally permitted, sign.
- (2) Temporary and special event signs meeting the requirements of MMC [22C.160.230](#).
- (3) On-premises and portable commercial or real estate signs meeting the requirements of MMC [22C.160.230](#)(5) and (6).
- (4) Political signs meeting the requirements of MMC [22C.160.230](#)(7).
- (5) Nonelectric signs not exceeding four square feet per face, which are limited in content to the name of occupant and address of the premises in a residential zone.
- (6) Instructional signs, not exceeding six square feet per sign; provided, that foundation, anchorage, attachments and other structural support of the sign and electrical connection require construction permits.
- (7) Menu signs. Foundation, anchorage, attachments and other structural support of the sign and electrical connection require construction permits.

(8) Seasonal decorations. Reasonable seasonal decorations within an appropriate holiday season or during a festival are exempt from this section as long as such displays are removed promptly at the end of the holiday season or festival.

(9) Sculptures, fountains, benches, lighting, mosaics, murals, landscaping and other street furniture and design features, which do not incorporate advertising or identification.

(10) Signs not visible from public way. Exterior and interior signs or displays not intended to be visible from streets or public ways, signs in the interior of a building more than three feet from the closest window and not facing a window, window displays and point of purchase advertising displays such as vending machines.

(11) The flag, emblem or insignia of a nation or other governmental unit or nonprofit organization, subject to the guidelines concerning their use set forth by the government or organization which they represent. ~~Flag poles require a construction permit for structural review.~~

(12) Traffic or other municipal signs, signs required by law or emergency services, railroad crossing signs, legal notices, and any temporary signs specifically authorized by the city council or authorized under policies and procedures adopted by the city council.

(13) Signs of public utility companies indicating danger or which serve as an aid to public safety or which show the location of underground facilities or of public telephones.

(14) Memorial signs or tablets, names of buildings, stained glass windows and dates of erection when cut into the surface of the facade of the building or when projecting not more than two inches.

(15) Incidental signs, including, but not limited to, "no trespassing," "no dumping," "no parking," "private," signs identifying essential public needs (i.e., restrooms, entrance, exit, telephone, etc.) and other information warning signs, which shall not exceed three square feet in surface area.

(16) Flush-mounted wall signs which are used to identify the name and address of the occupant for each dwelling, provided the sign does not exceed two square feet in sign area.

(17) Gateway entrance signs. Gateway entrance signs that comply with the city of Marysville gateway master plan. Foundation, anchorage, attachments and other structure support of the sign and electrical connection require construction permits.

Attached are the following documents related to the proposed code amendment:

1. Letter from Mr. Evan Kaiser to Gloria Hirashima, dated November 8, 2016
2. E-mail from Gloria Hirashima, CAO, to Mr. Evan Kaiser, dated November 18, 2016
3. Letter from Mr. Evan Kaiser and Ms. Patricia Kaiser to Marysville City Council
4. E-mail from Mr. Evan Kaiser to Janis Lamoureux, dated December 21, 2016
5. E-mail from Dave Koenig, CD Director, to Mr. Evan Kaiser, dated December 22, 2016

Community Development staff requests the Planning Commission review the DRAFT amendments related to flags and flagpoles and provide direction on finalizing the proposed code amendments for public review.



City of Marysville  
 Chief Administrative Officer  
 Gloria Hirashima

11-8-2016

Many sources of information and many politicians consistently state that "Our nation is a nation of laws". While our nation has many laws, most everyone knows that many violations of our laws are not enforced. Does the city require conformity to the Marysville Municipal Code and will the city enforce violations of the MMC?

Due to the ineffective response to my complaint, my wife has filed a separate complaint listing different issues. I indicated to Mr. Koenig that I do not want these cases combined. My complaint was made by me. My wife's complaint was made by her. We are two separate individuals. The two complaints are based on some similar and some dissimilar issues. I do not want to obtain information about my complaint from my wife. I requested that Mr. Koenig inform me of my case number on 10-28-2016. On 11-7-2016, my wife was discussing her case with Mr. Koenig and he informed her that the cases have been combined. He has not informed me of the case number, but gave the case number to my wife. The case number is reportedly CE16-000433. I do not want to be supplied with second hand information. My wife's case involves issues that are not a part of my complaint. I want answers to my questions not her questions. Combining these cases would limit my options. The fact that a second case was filed is due to ineffective and inadequate processing of this case by the Community Development Department.

Have you contacted Mr. Koenig or discussed me with Mr. Koenig since 11-2-2016?

City officials or executives are on a salary. If they work more than 40 hours per week, are they paid for overtime?

Who evaluates the city officials and executives job performance?

Should the code inspectors be proactive? For example to reach the property with the flagpole, they must pass a readily observable and dilapidated shed that is a health and safety hazard. Should they notice, investigate and resolve this issue? If not, this will be my next complaint. Some nearby neighbors have reportedly complained about rats and this may be the source. Even if it is not the source, it is a health and safety issue. In addition, Mr. Koenig was informed by me on 9-7-2016 that two other flagpoles were installed recently on nearby properties. One is across the street the other is on 30<sup>th</sup> St NE. I asked that he check on these flagpoles. Did anyone check to see if construction permits were obtained for these flagpoles? If improperly constructed, one of these flagpoles could fall on pedestrians; the other appears not to be a danger to the public. Must I file complaints to protect the city's population?

How I met Mr. Koenig--- A planner acted inappropriately, gave me incorrect answers to my questions, stated that I must obtain a permit for a flagpole and hung up the phone. My questions were about possible contradictory information in the MMC and at no time did I state that I was going to install a flagpole. I phoned Mr. Koenig who replied with the same incorrect answer as this planner, but did listen to my explanations of the erroneous comments and indicated his agreement with the correction of his and her incorrect statements.

I am supplying you with copies of all of the correspondence with Mr. Koenig and Mr. McLeod and some of the details of my conversations with Mr. Koenig on 9-7-2016 and 10-7-2016. .

Even when words and terms are defined, these definitions are subject to different interpretations. When words and terms are not defined more problems are created. There are errors in the MMC, and terms like flagpole that are not clearly defined are open to a good deal of misinterpretation. Who should I contact about errors in the MMC?

First I would like to review Mr. Koenig's response dated 11-4-2016 which is his response to my email dated 10-28-2016. Very few of my questions were answered and I have not yet received a case number from Mr. Koenig. I have underlined the sentences which create confusion, are unclear, contradict previous statements, or indicate a lack of response to my questions in the email dated 10-28-26. I will discuss them with you. Having completed this review, I find this response totally inadequate.

#### PARAGRAPH ONE

First sentence---An enforcement letter has been sent—Enforcement letter for what? Violating the setback requirement? Violating the requirement to obtain a construction permit prior to construction? Violating the public nuisance codes? If this flagpole violates the setback requirements, how can the owners obtain a permit? What has this department concluded based on the numerous inspections of this site? *On 11-7-2106, my wife talked to Mr. Koenig about her complaint and was asked if she wanted the letter sent. I do not want second hand information. Was the letter sent by 11-4-2016 or not?*

Second sentence—How can the owners obtain a permit after construction, when the plans must be reviewed before construction begins? One would hope that an inspection would be made during construction to ensure compliance with the plans. The location of this flagpole violates the setback requirement. How can a permit be obtained when the presence of this flagpole is a violation of the setback code? If the city is anticipating that the owners are going to move the flagpole to meet the setback requirements, the city and the owners should make sure that the noise generated by these flapping flags does not violate the noise levels that would make this flagpole and flags a nuisance. Noise levels are not a part of my complaint. This statement is just an example of what will occur if this flagpole is allowed and if noise levels are exceeded. According to articles that I read a flapping flag breaks the sound barrier producing unacceptable levels of noise. According to the MMC, permitted noise levels at night are very low, and during the day, any sustained noise levels are low. Are noise nuisance complaints enforced if found to be valid?

Sentences three and four —I did read my email and I am aware of the information conveyed to me on 10-17-2016. I requested the dates of all inspections.—Does this email adequately respond to my request? I do not see the dates of any inspections other than the one on 10-17-2016 (one day after the passage of the anticipated storm). On 10-7-2016 Mr. Koenig verbally indicated to me that he had a picture of this flagpole. I asked in my email dated 10-19-2016 “Was this picture not adequate?” (based on my observance of this flagpole any picture taken prior to 10-7-2016 would show flags flying). I have not received an answer to this question.

This flagpole was reportedly inspected multiple times. What does the inspector inspect? Please explain in detail how each inspection was completed, the date of each inspection and whether the inspector actually approached the flagpole and looked at the type of construction. Even in the lowered position the light is still on the top of the pole and the rotating flag collars are still attached to the flagpole. Does the inspector know that this is a telescoping flagpole? The photograph sent to me on 10-17-2016 shows the light on top of this flagpole.

Sentences five and six—I disagree with Mr. Koenig's conclusion that the lowered flagpole is not a code violation. His conclusion is contradictory to the visible evidence and his earlier statements. I discussed many matters with Mr. Koenig on 9-7-2016 and one was the definition of a flag pole. Although comments in the MMC indicate that flagpole is defined under flagpole, there is no definition in the F listings. Mr. Koenig stated that a flagpole is defined as an accessory structure and is subject to the setback requirements. Mr. Koenig indicated that a flagpole must be installed outside of the five foot side yard set back. Since the city codes do not describe a flagpole, Mr. Koenig agreed that a typical definition (a pole from which to hang a flag) was the definition that was acceptable to the city. As we discussed anyone would recognize a flagpole. As of October 17, 2016, this definition has apparently been changed, requiring that a flag be displayed on a flagpole in order for it to be considered a flagpole. If the owners were asked if this was a flagpole, I believe that they would affirm that this is a flagpole. Even when lowered, the light and rotating flag collars would indicate the purpose of this flagpole. The picture supplied to me on 10-17-2016 shows the light on top of this flagpole. What other purpose would this pole have? At any of the inspections, did the inspector physically examine this flagpole, not just view it from a distance? I believe that the conclusion that this lowered flagpole is not a flagpole is incorrect. By postponing the examination of this flagpole for over four weeks, this department chose the one week when a winter storm was forecast. Why inspect this flagpole twice during that time, apparently a few days apart, when any reasonable person would have lowered their flags?

Sentence 7—Mr. Koenig did state on 10-7-2016 that he had a picture. Why have I not received a copy of this picture? As mentioned earlier, did this picture show flags flying? I asked for the dates of all inspections. Have I received any date other than 10-17-2016?

Sentence 8—On 10-11-2016, I sent an email to Mr. Koenig and one to Mr. Mcleod. Mr. Koenig replied to my email that was addressed to him and the email addressed to Mr. Mcleod on 10-17-2016. To clarify the email for which I wanted a response to questions that were not answered, I specified the date and time of Mr. Koenig's reply to my email dated 10-11-2016. In Mr. Koenig's response dated 10-17-2016 at 9:06AM, I do not find any answers to any of my questions. Mr. Koenig's conclusion that this pole is not a flagpole contradicts his definition of a flagpole that was stated on 9-7-2016. The questions I ask in this email should be answered, because this is a flagpole on which flags are flown. I am requesting an answer to each and every question that I asked in the email dated 10-11-2016.

Mr. Koenig may be referring to the email sent to Mr. Mcleod and answered by Mr. Koenig. If so, I would like answers to the following questions that were asked in this email:

Answer—Public Nuisance is defined in code MMC 4.02.020. My question was is there a definition of a nuisance at common law in the MMC? If not please provide the definition of this term used by your department. Should I be supplied answers? As a new question, this section implies or states that a private nuisance at common law is a public nuisance. If one does not know what a private nuisance at common law is and the MMC does not define the term, then should one assume that all private nuisances are public nuisances? I believe that this section needs clarification.

#### Citizen complaints

This section states that any aggrieved person may file a written complaint alleging that a violation of the MMC has occurred. My questions pertain to violations of the code. Code violations would not be consistent with permits that are consistent with the code. Please answer my question, which is about an apparent contradiction. If several individuals file separate complaints are the cases combined? If so, is each individual notified of the progress of the complaint or is the information given to one individual who is expected to inform the other complainants?

## PARAGRAPH TWO

A flagpole is an accessory structure. Has this department never had a complaint about an accessory structure? Prior to my meeting with Mr. Koenig on 9-7-2016 I sent an email dated 8-30-2016 suggesting that he review the matters that I wished to discuss. At this meeting, the answers that I received were reportedly the department's positions on many matters including flagpoles. If he had no idea about how to handle a flagpole complaint, how can his statements to me have any validity? I find the need that this matter be reviewed by the staff somewhat puzzling based on the impression that Mr. Koenig exhibited at our meeting. If his response was going to exceed 3 weeks one might expect an update. I waited over 4 weeks to request an update and certainly some of the minor issues should have been answered by then. For example, researching whether a construction permit was issued would require very little time or effort. Between 9-7-2016 and 10-7-2016 this property was reportedly inspected, possibly several times and at least one picture was taken. What were the results of these inspections and the picture which should have shown a flying flag?

I believe that I have never requested an expedited processing of this complaint. I relied on your estimate. I did point out the unexpected, lengthy delays. As the Director, your estimate should be reasonable and if not I should have been informed. Why would your department inspect this property apparently within 5 working days when you were apparently unable to adequately investigate this property in over 5 weeks? Prior to the recent mailing of the enforcement letter were the owners contacted? Was a door hanger left? Was a close physical inspection of this pole conducted and did your inspector not notice the light and rotating flag collars? The light is visible in the photograph that you sent to me in the 10-17-2016 email.

## PARAGRAPH THREE

I do not believe that my complaint mentions any noise issue. I believe that my wife's complaint mentions the noise from these flags. I want our cases to be separate and I do not want responses that should be directed to her sent to me. Please discuss any noise comments with my wife. I believe that if I am asked a question that as a typical act of courtesy that I should reply to the question. I have not discussed this noise issue with my neighbor and I do not believe that in my dealings with Mr. Koenig that I mentioned the noise issue. I do not intend to discuss the noise issue with my neighbor. I know for a fact and based on my and my other neighbors' and friends' experiences that discussing a noise issue is not the quickest way to solve a noise problem. It is nice that you encourage neighbors to work out noise issues, but there are noise nuisance laws. I do not believe that my complaint mentioned a noise issue and I did not mention the noise issue until earlier in this statement. If I did, please advise me of the emails on which these comments appear, and where on my complaint noise issues are mentioned.

As I discussed with Mr. Koenig, I did not want to proceed with a complaint about the violations that are present (not obtaining a construction permit and the violation of the setback requirements) without first consulting with him. Based my conversations with Mr. Koenig and Mr. Koenig's statements on 9-7-2016, I had no doubt that both violations were valid. Although a thorough investigation may not agree with my conclusions, I deserve a reasonable and timely response. I am amazed that such a simple investigation could take this much time and require so much effort and time on my part. I believe that I should have received many more updates with respect to the reasons for the delay and the lack of any substantial progress. I also believe that I should have received thorough and complete responses to my questions. I would appreciate a response by email to each of the issues and questions that are presented in this document.

I believe that the fact that I had to prepare this multipage response to a three paragraph email illustrates serious problems with this department and the director of this department. I would like a response

from Gloria Hirashima explaining the basis of her review of this matter and her conclusions regarding the inadequate service, and contradictory and inadequate responses that I have received in this matter.

Thank you,  
*Evan Kaiser*  
Evan Kaiser

**From:** Gloria Hirashima  
**Sent:** Friday, November 18, 2016 5:08 PM  
**To:** 'epkservices@comcast.net' <[epkservices@comcast.net](mailto:epkservices@comcast.net)>  
**Subject:** Response to meeting

Dear Mr. Kaiser:

Thank you for contacting me regarding your concerns at our meeting last Tuesday 11/8/16. I have reviewed the correspondence you provided dated 11/8/16 as well as emails received this week concerning the flagpole located at 2914-73<sup>rd</sup> Avenue NE. The case number is CE16-000433. I shared your letter with Dave Koenig and he has provided me with an overview of the code enforcement investigation and determinations made by the Community Development Department. In my response below, I am answering several inquiries/questions that appeared directed at me. I am not responding to issues that I believe were covered, or concluded by Dave's email responses as I do not wish to duplicate or confuse matters.

I understand that you feel our definitions for flags, flagpoles and how we address permitting is inadequate. I have discussed this with the department and we share your concerns. We will be reviewing the requirements for flags, flagpoles and updating/clarifying the municipal code as appropriate (sign code and building or land use requirements). I believe this can be completed within the next 3 months.

I am aware that Dave responded to your direct inquires to the department with an email response this afternoon. It is my understanding that staff did confirm a code violation in that 1) the pole did not have a permit issued; and 2) the pole did not meet minimum setbacks for the structure. Mr. Koenig did meet with your neighbor to review the situation and she immediately consented to discontinue use of the flagpole and relocate the structure to meet required setbacks and to obtain a permit for the new location. The department did issue a permit for the relocation, subject to meeting setbacks. The old flagpole has been retracted and the flag removed. This same structure will be relocated to the new location. With the relocation of the flagpole to the new location, under a valid permit and meeting setback requirements, the case file on CE16-000433 will be closed.

I will confirm that we do investigate noise complaints. If the complaint is valid, we will enforce the codes. I understand that you did not file a noise complaint but have raised the possibility of a future concern in your letter. At this time, the flag has been removed. In future, the pole will be moved to a new location that will be further removed from the property line.

Regarding your question as to what 4.02.020(7)(b) "A nuisance at common law" means. I have no idea what this phrase means and would concur that the section should be clarified or removed if it cannot be better defined or understood. We will address this during our review of the flag requirements and definitions.

You asked if several complaints are typically combined. The answer is yes and this has been historic practice by the department. If several complaints are made regarding the same location, the department will combine the complaints into one CE file and number. This is desirable from a tracking and efficiency standpoint. The department does not have a uniform policy as it relates to communicating with diverse complainants, but is willing to accommodate requests to meet customer service needs. For instance, in your case, you and your wife made separate complaints and made it

known that you wished to have separate responses. The department is sending separate responses now as a result.

I realize that when we met you were dissatisfied with the City's level of service and response. In my discussions with the department it was clear that they were attempting to respond to your requests for information, as well as work with the neighboring property owners to address the code violation. Your neighbor is being cooperative in working with the department to understand and meet city code requirements. While I understand that you feel we should have addressed this sooner, I hope that the department's and your neighbor's actions this past week demonstrate our mutual efforts to respond to your concerns.

Best wishes,

Gloria Hirashima

Gloria Hirashima  
Chief Administrative Officer  
City of Marysville  
1049 State Avenue  
Marysville, WA 98270  
(360) 363-8088  
[ghirashima@marysvillewa.gov](mailto:ghirashima@marysvillewa.gov)

Mayor Nehring and Council Members we are Patricia and Evan Kaiser and we reside at 2910 73<sup>rd</sup> Ave NE Marysville, WA. We are appearing before you to address three main issues. We can supply you with copies of all of the emails regarding our complaint if you want to review them. We have extracted comments from some emails. We believe that these extracted comments represent the intentions of the author and are not taken out of context. We can supply you with complete copies of all of the referenced emails, if you prefer. We believe that we are detail oriented but we know that we and people in general make mistakes. Mr. Koenig, the director of the Community Development Department repeatedly either ignored or refused to answer many of our questions. He refused to investigate our noise and nuisance complaint. Must authorized city employees enforce the MMCs as written? Can city employees change or ignore these codes without review by the council? In addition, there are too many illustrations of incomplete, inaccurate, unclear, and confusing sentences in his responses. As examples of these types of correspondence we have included several complete emails.

We ask that the council review all of our information and notify us of your conclusions and any actions that you take as a result of your review and analysis of this data.

The three main issues are inadequate codes and building permit #B16-0428, the poorly conducted investigation into our complaints which is case number CE16-000433, and the reported unauthorized change in policy for collecting fees for flagpole plan reviews.

First Issue Inadequate codes and Building permit #B16-0428 issued on 11-9-2016

We are concerned about several inadequacies in some sections of the MMC. Evan met with the Marysville CAO on 11-8 and we received her response to this meeting on 11-18. We quote the following from her response: "I understand that you feel our definitions for flags, flagpoles and how we address permitting is inadequate. I have discussed this with the department and we share your concerns." The CAO indicates that some of the inadequate codes will be updated and clarified in the next three months. Our concern is that during the revision time we and the citizens of Marysville will needlessly be exposed to the safety and health violations created by improperly installed flagpoles. The permitting process is inadequate and sometimes city employees do not adhere to and enforce the codes.

Because of the inadequate codes, we believe that our citizens must be protected and that no permits for flagpoles should be issued until the code specifies the structural integrity requirements for each flagpole and limits the size and number of flags that may be displayed on flagpoles. Construction work on any flagpole that is currently in progress should be stopped. Work on **this** permit should be stopped because the permit was issued in violation of the MMC.

Comments on Building permit #B16-0428 issued on 11-9-2016 **Exhibit A**

*Permit #B16-0428 should be revoked and all work on this permit should be immediately stopped due to the code violations mentioned in the following paragraphs.*

We are extremely concerned that a permit was issued by a city building official on 11-9-2016 and that the director has stated that this permit meets all of the codes in the MMC. The flagpole that will be installed will violate several codes in the MMC. The MMC defines a flagpole as an accessory structure.

The approved permit allows construction of a 21 foot high flagpole. The code has a 20 foot height limit for flagpoles, which are accessory structures. This building permit was processed without the required structural review. The City has been unable to answer our questions about the definition of a structural review and who completes these reviews. The permit does not limit the size of the flags and based on information in our statement large flags could easily collapse this pole in light winds.



The MMC specifies that the height of an accessory structure cannot exceed 20 feet. A flagpole is an accessory structure. This permit and the instructions to install this flagpole clearly indicate that this is "THE LIBERTY" model telescoping flagpole. **Exhibit B** The variable height is 17' to 21'. There is no restriction on this permit requiring that the pole not be extended to 21 feet. If such a restriction were imposed, the city could not adequately verify compliance. Whenever flags were displayed on the **existing**, illegal flagpole at this location, the flagpole was raised to the highest position. We learned on 11-22 that this height was 21 feet, which violates the code's maximum 20 foot height. This building permit is to locate the existing, illegal flagpole to a new location and this flagpole will still have a height of 21 feet, thereby violating the code.

A flagpole is an accessory structure. Approval of this building permit violates the requirement that a flagpole cannot exceed 20 feet in height. MMC.180.030 item1B. "The height of all detached accessory structures shall not exceed 20 feet", etc. Does the flagpole height listed on the EZPOLE plans include the light that is on top of this pole? This information does not include the gauge of the aluminum flagpole. The gauge of the flagpole affects the structural integrity. The instructions indicate that the flagpole can accommodate two 3' by 5' flags. The permit does not limit the size of the flags and based on information in our statement one large flag could easily collapse this flagpole in light winds.

The warranty on this flagpole is: *WARRANTY on all its flagpoles and mounts which covers damage and/or replacement costs for poles and mounts damaged as a direct result of **wind gusts** up to 50 mph. For safety reasons – EZPOLE strongly advises customers to lower poles in instances where wind speeds exceed or are expected to exceed 50 mph.* Is this guarantee an assurance of structural integrity? Based on these comments, if damaged by a sustained wind velocity of 30 mph damage and/or replacement costs for poles and mounts will not be covered. How structurally sound is this flagpole? The city should have some regulations for when this flagpole must be lowered and when other flagpoles of various heights and qualities should be lowered. We think that the codes should require that all flagpoles be lowered in winds of 20, 30, 40, or 50 miles per hour, depending on the height, quality of the flagpole and a structural review certifying that these flagpoles can withstand the rated wind speed, with or without flags.

Evan was informed by the building department that the plans for this flagpole were reviewed by a certified plan reviewer. Based on Evan's quickly conducted, partially completed research, a plan reviewer cannot complete structural reviews. A flagpole must have a structural review. MMC 22C.160.080 Exemptions.

11) The flag, emblem or insignia of a nation or other governmental unit or nonprofit organization, subject to the guidelines concerning their use set forth by the government or organization which they represent. Flag poles require a construction permit for structural review.

We do not consider the plan review by the city building official to be a structural review. Structural Review is not defined in the MMC. Was a structural review of this flagpole conducted by the Community Development Department and this building official before issuing this permit? There is none in the file. The city has been unable to answer our questions about the definition of a structural review and who completes these reviews. Are the council's approved code ordinances being ignored? Can any city employee decide not to adhere to the approved MMCs?

We did locate the following comments on the internet: Structural Review: The purpose of the Structural Review is to provide independent verification that the structural design of the Structure is in general conformance with the requirements of the Building Code, and all related structural codes and technical standards. A structural review would assure proper grounding, strength, wind resistance, and other

relevant engineering requirements. We have not been provided adequate information from the city and this is the best definition that we located.

City employees have not adhered to the codes during the processing of this permit. Because the processing of this permit violated these codes, we request that this permit be immediately revoked and that all work on the installation of this flagpole be immediately and permanently halted.

On 11-22 Evan contacted the engineering department and asked whether this department conducted structural reviews and if they did, could they define a structural review. Evan hoped to find out the definition of a structural review and who would complete this type of review prior to this meeting on 11-28. Having received no response, later in the day Evan called back and was informed that his request had been forwarded to the planning department. Evan explained that he wanted an answer from the engineering department. Evan's question is "Does the engineering department process structural reviews and what constitutes a structural review?" Evan was told that he would receive an answer from the engineering department. As of 11-27, we are still waiting for an answer.

Evan does not know if a complete and correct explanation of his question was forwarded to the planning department. Evan did receive an email from the director dated 11-23 that pertains to this building permit. The director states that "The Building Official has accepted the manufacturers specification for installation as being adequate for installation." "No additional structural review is being required for the flag pole."

Evan was informed that this plan was examined by a plan reviewer. Plan reviewers cannot process structural reviews. Does the last sentence in the preceding paragraph indicate that a structural review was completed? Evan was given a complete copy of the building permit file for this permit on 11-22-2016. We have attached a copy of the permit for each council member. **Exhibit A** Should the review by the building official assure proper grounding, strength, wind resistance, seismic loads and other relevant engineering requirements? Should the council require this information for this permit? What indication does the building official have that this flagpole will withstand a sustained wind of 30 miles per hour with or without one or two flags? What happens if a 5'X8' flag is raised on this flagpole?

Following is an older code requirement for residential flagpoles from an unknown city. Our permits should not be issued without this type of protection. Is this ordinance an example of a structural review? Should the council require a similar ordinance? Should a structural review include at least the following: All applications for flagpoles, towers or tower structures requiring a building permit shall include plans and specifications stamped by a professional licensed engineer to assure proper grounding, strength, wind resistance, seismic loads and other relevant engineering requirements?

14.17.040 Permits required.

A. No flagpole, tower, or tower structure 15 feet in height or greater shall be erected or constructed without first obtaining a building permit pursuant to the 2006 International Building Code, Section 105.1, Permits Required, as amended.

B. Unless additional review is required pursuant to a building permit application for a flagpole, tower, or tower structure shall be reviewed for compliance with this chapter and all applicable codes and a decision to approve, approve with conditions, or deny shall be issued within 21 days of receipt of a fully complete permit application. All applications for flagpoles, towers or tower structures requiring a building permit shall include plans and specifications stamped by a professional licensed engineer to assure proper grounding, strength, wind resistance, seismic loads, and other relevant engineering requirements.

C. Metal flagpoles requiring a building permit shall be engineered and constructed in accordance with the American National Standard Institute – National Association of Architectural Metal Manufacturers

(ANSI/NAAMM) Guide Specifications for Design of Metal Flagpoles, FP 1001-97 as amended, and as adopted in the 2006 International Building Code, Section 102.4. [Ord. 1336 § 1, 2009.]

## Second Issue

We do not want other people subjected to the problems we experienced with the director of the community development department during the investigation of our complaint about the code violations for an illegally installed flagpole and the noise and nuisances caused by the flapping flags. He refused to inspect or investigate our noise and nuisance complaint when the flags were up and flapping. We believe that he should process citizen complaints in a more efficient, effective, timely and professional manner. He should conform to the MMC and not create his own unsupportable interpretations of these codes. He has refused to answer many of our questions.

We have included several emails as examples illustrating the lack of responses to our questions and a failure to clearly communicate ideas. The response to our email dated 10-28 is dated 11-4. Included is our email dated 10-11 and the response dated 10-17. The 10-28, 11-4, 10-11 and 10-17 emails and the letter dated 11-4 are **Exhibit C**. Patricia and Evan both sent emails dated 11-15. The responses to both of these emails dated are dated 11-18. The responses to these emails and the letter dated 11-9 are **Exhibit D**. Our response to the 10-28 email was discussed with the CAO. We believe that the "enforcement" letter issued on 11-4 **Exhibit C**, does not conform to section 4.02.040 which is listed on Evan's 11-15 email. Also listed on Evan's 11-15 email is Item number 5 Inspections of section 4.02.040. Was this section strictly adhered to during this investigation? We believe that the director's conclusion that a telescoping flagpole in the lowered position is not a flagpole is not realistic or supportable. In the lowered position, the rotating collars and the top light are still in place. These telescoping flagpoles should be lowered when wind velocities increase. In this lowered position, this flagpole is still a flagpole.

In both of our emails dated 11-15 we requested that Mr. Koenig review the noise and nuisance codes that are stated in the MMC, the WACs and the RCWs. His response to Patricia's email clearly indicates that he misinterpreted or did not understand these codes. He states that he will enforce these codes by using requirements that differ from those specified in MMCs 6.76.020 and 6.76.040. The MMCs codes were approved by the city council and should be adhered to. All applicable WACs and RCWs should be complied with. The emails, letters and data in this and the preceding paragraph will be discussed later in this statement.

Our neighbor installed a telescoping flagpole and flew a flag and a banner from this flagpole. The flag and banner were flown day and night. Installation was earlier this year and presented intermittent noise problems until the consistent winds developed and the wind velocity increased. We, our friends, neighbors and relatives have all had experiences with problems with neighbors. We have learned that the best method to handle these matters is to check the laws and start with enforcement of the laws. The flagpole code violator used this method to contact the city about a barking dog. Evan indicated that he would be a witness if this neighbor wished, which she did not. The city warned the dog owner and the problem stopped.

As the wind velocity and frequency increased the flapping flags created a severe noise and nuisance problem. Patricia and our daughter had their sleep interrupted many times on windy nights. Evan is hearing impaired and only noticed the noise when working in the yard without his hearing aids.

Evan met with the director of the community development department on 9-7-2016. Evan believed that the telescoping flagpole that our neighbor installed very near the side yard property line violated the setback requirement, was constructed without a construction permit and that a structural review had not been completed before installation. The director indicated that if Evan's beliefs were true, that the

flagpole must be removed. This process would take two to three weeks if the code violators did not contest enforcement of the code. The director indicated that Evan need not file a complaint and that the director would investigate this matter.

When finally contacted on 11-4, the code violators agreed to comply with the director's enforcement letter, which required them to obtain a building permit, not remove this illegal flagpole, a code requirement. The director was aware that this flagpole violated the MMCs prior to 10-7. The director could have investigated the noise and nuisance complaint between 10-25 and 11-4 but refused to do so. The director provided some unconvincing excuses for the delay in investigating and enforcing these violations. How could this process take over two months? The code violating flagpole is still in place. The director could have verified if a construction permit had been issued for this flagpole in a matter of minutes.

On 10-7 Evan called the director. Over four weeks had passed and the investigation should have made substantial progress. The director indicated that he had a picture of the flagpole and the flying flags. We repeatedly requested the date of this inspection and asked whether action could not be taken based on this picture. Just last week on 11-21 we were notified that there was a picture, but that the picture was destroyed. We still have not been given the inspection date on which this picture was taken. We have repeatedly requested the date of this inspection and all inspections and have received only vague references with no specific dates. We were not notified until 11-21 that the code enforcement officer did note the code violations during his inspection that was completed sometime prior to 10-7. No action was taken until 11-4.

Just prior to Evan's phone conversation with the director on 10-7, Evan also spoke (by phone) with the code enforcement officer about another matter. During this discussion Evan was told that a complaint must typically be filed before any action is taken. During the conversation with the director, the director indicated that Evan should consider filing complaint. Evan filed a complaint on 10-7.

During our review of the MMC we became aware of the noise and nuisance codes and on 10-25-2016 Patricia filed a complaint that was similar to Evan's, but included the noise and nuisance violations. The director combined our complaints, but only processed Evan's. The director did not investigate the noise and nuisance portion of Patricia's complaint. Evan advised the director on 10-28 that Patricia had filed a noise and nuisance complaint. No action was taken on Patricia's noise and nuisance complaint. In a conversation with Patricia, the director refused to respond to Patricia's question, which was "Will you enforce the code?" Even when the code inspector later noticed that the flags were flying after 10-25, no inspection for noise or nuisance was made. We have repeatedly requested the dates of these inspections and have received vague references with no specific dates. (Other than the 10-17 inspection) Why was Patricia's complaint not investigated?

The city had no information about the decibel levels produced by flapping flags until we submitted some data that indicates that flapping flags, a cracking whip and a snapping towel can break the sound barrier and produce sounds exceeding 200 decibels. The MMC maximum permitted nighttime decibel levels can vary from 45 to 50 decibels and during the day from 60 to 70 decibels. These facts should lead one to strongly suspect that these flapping flags would violate the noise and nuisance codes

As of at least 10-7, the director was aware that this flagpole violated the MMCs. He knew that the flagpole was extended and that flags were flying. A picture was taken and somehow destroyed, but the picture is irrelevant. He knew this was a flagpole. This flagpole was installed without a construction permit or a structural review and violated the side yard setback yet no action was taken until 11-4.

Sometime between 10-10 and 10-17 this flagpole was inspected twice, just before and just after the big winter storm that was predicted. We have repeatedly requested the dates of all inspections and have been denied this information. On 10-17-2016 we received a photo showing the telescoping flagpole reduced to less than six feet with no flags attached. This flagpole status was because of the impending storm that was expected to arrive between 10-13 and 10-16. The inspector apparently did not note the light on the top of this flagpole or the rotating collars that flags can be attached to. This flagpole is located in the front yard and the inspector could have easily approached and examined it. If the code violators had been contacted by any of the means suggested in the code, we believe that they would have readily admitted that this was a flagpole. Were the codes listed in 4.02.040 Item 5 Inspections adhered to? These codes and MMC 4.02.040 are listed in Evan's email dated 11-15 which is included as **Exhibit D**. This pole was sold as a flagpole and used for several months as a flagpole. This is a telescoping flagpole and the fact that no flags are attached and that the height has been reduced does not change this fact. The plan for building permit B16-0428 proves this statement.

This flagpole was inspected sometime between 10-10 and 10-17, and on 10-17. On 10-17 the director indicated that the flagpole had been reduced in size to 4 to 5 feet and there was no flag being flown or set up for a flag. The rotating flag collars were on this flagpole, when in the lowered position, and a flag could be easily attached. From what distance did the inspector inspect this flag? On 10-17, the director stated and we quote "Based on this observation the pole is not being used as a flagpole". The director concluded that this lowered flagpole was a pole and did not violate the MMC. The location of this flagpole violates the code and does not change when the flagpole is lowered. We do not believe that this conclusion can be supported using any reasonable logic. The MMC only requires the presence of the flagpole, not the use.

Evan asked for an explanation as to how this flagpole, which was sold as a flagpole and used as a flagpole suddenly, becomes a pole, which does not violate the MMC. This is clearly a flagpole. We have not received a response to our requests. This flagpole was inspected at an unknown date between 9-7 and 10-7 when both flags were flying. The director knew that this was a flagpole at that time. Why was any enforcement action delayed until 11-4? This flagpole had been raised to the highest height and two flags were flown for many months prior to this storm. The director was advised of this fact. As of 11-22 we know this height to be 21 feet and this height is a code violation.

The director was aware that the flagpole was extended and flags were flown sometime prior to 10-7 and between 10-17 and 11-4 but refuses to disclose the date of inspections (other than 10-17). He should know that this flagpole violates at least three codes, yet does not take any action until 11-4. In this "enforcement" letter, the director again states that when the flagpole is in the lowered position and not being used as a flag pole, the pole is not considered a violation of MMC. These statements about the height, use and whether flags are displayed contradict the definition that I presented to him on 9-7 and to which he agreed. He also agreed on 9-7 that flagpoles are readily recognizable. We believe that his interpretation of what is and what is not a flagpole is unsupportable. The director agreed to the following definitions on 9-7:

#### Simple Definition of flagpole

A tall pole from which a flag hangs: a pole used to display a flag

#### Full definition of flagpole

A pole on which to raise a flag.

Source: Merriam-Webster's Learner's Dictionary

Would any of the council members conclude that a flag must be hanging from a flagpole in order to recognize a flagpole as a flagpole? Fixed and telescoping flagpoles have hardware that clearly indicate

the use to which the flagpole will be used. Does lowering a telescoping flagpole to 4 or 5 feet transform a flagpole to a pole?

In his 11-4 email, the director stated and we quote: "An enforcement letter has been sent to James and Christine Henkleman @ 2914 73<sup>rd</sup> AVE NE on the flag pole this week." "Both of those visits the flag pole was lowered and had no flags on it." "I communicated to you that the lowered pole was not a code violation." Why does the flagpole suddenly become a pole in the previous sentences? In the first and second sentences this structure is a flag pole. In the third sentence the lowered pole is not a code violation. The statements in these sentences are examples of the confusing and contradictory nature of much of the correspondence provided by the director. This structure is clearly a flagpole. An enforcement letter could not have been sent if there were no code violations. To be a code violation the flagpole had to violate the MMC. The reason the flagpole violates the MMC is because the flagpole is defined as an accessory structure, violates other codes and must meet the setback requirements. In the lowered position, this flagpole still had the light and rotating collars in place. This is clearly a flagpole.

In his 11-4 email, the director stated "We have never had a complaint about a flag pole." A flagpole is an accessory structure. Has there never been a complaint about an accessory structure? He spent time reviewing the code and asking staff about the intent of the code, when written. Evan requested, by email, that the director review the definition of a flagpole and many other definitions and codes prior to their meeting on 9-7. On 9-7, the director responded quickly to Evan's questions and gave Evan the impression that the director was confident of his answers to Evan's questions. Evan suspected some of the answers were not complete or accurate, but Evan did not challenge the director's statements. If the director was not knowledgeable about these codes at that meeting, how could he state unequivocally to Evan that **if** the five foot side yard set back was violated and **if** the flagpole had been installed without a construction permit and a structural review that the flagpole would be removed? Evan took notes at this meeting and based on these notes and Evan's memory, Evan has no doubt that this was the director's response.

The director did mention the noise from the pole in this email. The noise was not generated by the pole, but from the flapping flags, and he did not investigate our noise and nuisance complaint. Instead he encourages people to take action. We would encourage the director to do his job, which is to investigate complaints efficiently, effectively, timely and in a professional manner. He had ample opportunity to do so and failed to even attempt to investigate our noise and nuisance complaint.

On 11-9, by email and letter, the director indicated that a building permit was issued to the violators to relocate their flag pole to a location which would meet the MMC. This permit and the instruction to install this flagpole clearly indicate that this is "THE LIBERTY" model telescoping flagpole. This information does not include the gauge of the aluminum pole. The instructions indicate that the flagpole can accommodate two 3' by 5' flags. The permit does not limit the size of the flags and based on information in our statement one large flag could easily collapse this pole in light winds. As mentioned earlier, this permit should be revoked because the permit processing did not conform to the MMC. This permit for this 21 foot high flagpole exceeds the 20 foot height limit for accessory structures. This permit does not restrict the pole height to 20 feet or less. This building permit was processed without the required structural review. Also, the MMC has noise and nuisance regulations. Flapping flags hung from this 21 foot high flagpole will probably violate these codes.

The proposed, new location will be about 15 feet from our property and the noise generated by the previous flags was excessive and noticeable inside our home at a distance of at least 25 feet. Flags flown from this new location will almost certainly violate the noise and nuisance regulations. If the flagpole is ever installed with a proper permit, in a location that meets all city codes and if the noise generated by the

flapping flags does not violate the noise and nuisance levels, there will be no problem. Our other, adjacent, neighbor had a flagpole for many years and there was no problem.

On 11-18, **Exhibit D**, the director notified us that he understands that the new location of the flagpole will be away from our home and near the garage. We do not consider the new location indicated by the stake that is now located in the ground to be away from our home. Has the director visited this site? This stake is about 15 or so feet from our property line. This flagpole could easily be located on the other side of the garage and this location would be at least 25 to 40 feet from the nearest neighboring home. Should the city require installation in a reasonable location? We advised the code violators that if the noise from their flags exceeds the allowable limits that a complaint will be filed. The CAO has assured us that noise and nuisance code violations will be enforced.

The director has repeatedly not answered our questions and did not investigate our noise and nuisance complaint. He offers several excuses for the long time taken to process this complaint. He does not indicate why our noise and nuisance complaint was not investigated. In his responses, he often wastes his time by restating information that he supplied to us. We know the information that was provided to us and do not need to be reminded of this data. We do want to know the answers to the pertinent questions that we have to repeatedly ask. Many of our questions have not been answered.

Based on the information supplied to us, the installation of this flagpole will violate sections of the MMC. The permit for this flagpole should be revoked since required code procedures were not adhered to in the issuing of this permit. Because the city has so little information on flagpoles and has inadequate code regulations and permitting processes, we believe that the city should stop issuing new permits for flagpoles and stop work on any permits already issued. The city has no regulation on the size of the flag that can be flown on a flagpole or the minimum required gauge of the tubular walls. Generally the flag height should not exceed 20 percent of the flagpole height. A flag over 4X6 will bring most residential flagpoles to the ground with a 10 to 15mph wind. A residential flagpole will reportedly not stand up against a 30 MPH wind while flying a flag or 40MPH without a flag. Many flagpoles have no warranty. The preceding information is from the internet and we do not know if this is reliable information, but this is more information that the city has. The city should regulate the size of the flag based on the flagpole quality, height, structural integrity and type of materials used in the construction. A structural review for all flagpole permits should be mandatory and is mandatory per the current code. The current code should be enforced.

We believe that the "enforcement" letter issued on 11-4 does not conform to section 4.02.040 which is listed in Evan's 11-15 email. **Exhibit D**. We included a copy of the 11-4 letter. **Exhibit C** This flagpole violates at least 3 MMC's. We are happy that the noise has stopped. The code violations have not been corrected or abated. The lowered flagpole is a flagpole as proven by information in permit B16-0428. The director's contention that the lowered flagpole is not a flagpole cannot be supported. If as we believe, the permit issued for the new location of the flagpole violates the height and structural review requirements, the flagpole cannot be relocated. Lawyers love to contest laws that are not properly executed. This flagpole should have been removed by now or fines should have been levied if the owners are contesting removal. We believe that none of the enforcement actions listed in 4.02.040 (listed in Evan's 11-15 email) **Exhibit D**, have been implemented. Can an employee ignore the codes that were approved by the council?

The email response to our email dated 10-28 is dated 11-4 and copies are included. Included is our email dated 10-11 and the response dated 10-17. **Exhibit C**. Our response to the 10-28 email which is dated 11-4 was prepared and discussed by Evan with the CAO on 11-8 and is included beginning in the next paragraph. The underlined sentences were included in the statement to the CAO, but are not underlined

below. All of the sentences in Mr. Koenig's letter were underlined when Evan finished his review of the 11-4 email.

Letter discussed with the CAO.

First I would like to review Mr. Koenig's response dated 11-4-2016 which is his response to my email dated 10-28-2016. Very few of my questions were answered and I have not received a case number from Mr. Koenig. I underlined the sentences which create confusion, are unclear, contradict previous statements, or indicate a lack of response to my questions in the email dated 10-28-16. I will discuss them with you. Having completed this review, I find this response totally inadequate.

#### PARAGRAPH ONE

First sentence---An enforcement letter has been sent—Enforcement letter for what? Violating the setback requirement? Violating the requirement to obtain a construction permit prior to construction? Violating the public nuisance codes? If this flagpole violates the setback requirements, how can the owners obtain a permit? What has this department concluded based on the numerous inspections of this site? *On 11-7-2106, my wife talked to Mr. Koenig about her complaint and was asked if she wanted the letter sent. I do not want second hand information. Was the letter sent by 11-4-2016 or not?*

Second sentence—How can the owners obtain a permit after construction, when the plans must be reviewed before construction begins? One would hope that an inspection would be made during construction to ensure compliance with the plans. The location of this flagpole violates the setback requirement. How can a permit be obtained when the presence of this flagpole is a violation of the setback code? If the city is anticipating that the owners are going to move the flagpole to meet the setback requirements, the city and the owners should make sure that the noise generated by these flapping flags does not violate the noise levels that would make this flagpole and flags a nuisance. Noise levels are not a part of my complaint. This statement is just an example of what will occur if this flagpole is allowed and if noise levels are exceeded. According to articles that I read a flapping flag breaks the sound barrier producing unacceptable levels of noise. According to the MMC, permitted noise levels at night are very low, and during the day, any sustained noise levels are low. Are noise nuisance complaints enforced if found to be valid?

Sentences three and four —I did read my email and I am aware of the information conveyed to me on 10-17-2016. I requested the dates of all inspections.—Does this email adequately respond to my request? I do not see the dates of any inspections other than the one on 10-17-2016 (one day after the passage of the anticipated storm). On 10-7-2016 Mr. Koenig verbally indicated to me that he had a picture of this flagpole. I asked in my email dated 10-19-2016 “Was this picture not adequate?” (based on my observance of this flagpole any picture taken prior to 10-7-2016 would show flags flying). I have not received an answer to this question.

This flagpole was reportedly inspected multiple times. What does the inspector inspect? Please explain in detail how each inspection was completed, the date of each inspection and whether the inspector actually approached the flagpole and looked at the type of construction. Even in the lowered position the light is still on the top of the pole and the rotating flag collars are still attached to the flagpole. Does the inspector know that this is a telescoping flagpole? The photograph sent to me on 10-17-2016 shows the light on top of this flagpole.

Sentences five and six—I disagree with Mr. Koenig's conclusion that the lowered flagpole is not a code violation. His conclusion is contradictory to the visible evidence and his earlier statements. I discussed many matters with Mr. Koenig on 9-7-2016 and one was the definition of a flag pole. Although comments in the MMC indicate that flagpole is defined under flagpole, there is no definition in the F



listings. Mr. Koenig stated that a flagpole is defined as an accessory structure and is subject to the setback requirements. Mr. Koenig indicated that a flagpole must be installed outside of the five foot side yard set back. Since the city codes do not describe a flagpole, Mr. Koenig agreed that a typical definition (a pole from which to hang a flag) was the definition that was acceptable to the city. As we discussed anyone would recognize a flagpole. As of October 17, 2016, this definition has apparently been changed, requiring that a flag be displayed on a flagpole in order for it to be considered a flagpole. If the owners were asked if this was a flagpole, I believe that they would affirm that this is a flagpole. Even when lowered, the light and rotating flag collars would indicate the purpose of this flagpole. The picture supplied to me on 10-17-2016 shows the light on top of this flagpole. What other purpose would this pole have? At any of the inspections, did the inspector physically examine this flagpole, not just view it from a distance? I believe that the conclusion that this lowered flagpole is not a flagpole is incorrect. By postponing the examination of this flagpole for over four weeks, this department chose the one week when a winter storm was forecast. Why inspect this flagpole twice during that time, apparently a few days apart, when any reasonable person would have lowered their flags?

Sentence 7—Mr. Koenig did state on 10-7-2016 that he had a picture. Why have I not received a copy of this picture? As mentioned earlier, did this picture show flags flying? I asked for the dates of all inspections. Have I received any date other than 10-17-2016?

Sentence 8—On 10-11-2016, I sent an email to Mr. Koenig and one to Mr. Mcleod. Mr. Koenig replied to my email that was addressed to him and the email addressed to Mr. Mcleod on 10-17-2016. To clarify the email for which I wanted a response to questions that were not answered, I specified the date and time of Mr. Koenig's reply to my email dated 10-11-2016. In Mr. Koenig's response dated 10-17-2016 at 9:06AM, I do not find any answers to any of my questions. Mr. Koenig's conclusion that this pole is not a flagpole contradicts his definition of a flagpole that was stated on 9-7-2016. The questions I ask in this email should be answered, because this is a flagpole on which flags are flown. I am requesting an answer to each and every question that I asked in the email dated 10-11-2016.

Mr. Koenig may be referring to the email sent to Mr. Mcleod and answered by Mr. Koenig. If so, I would like answers to the following questions that were asked in this email:

Answer—Public Nuisance is defined in code MMC 4.02.020. My question was is there a definition of a nuisance at common law in the MMC? If not please provide the definition of this term used by your department. Should I be supplied answers? As a new question, this section implies or states that a private nuisance at common law is a public nuisance. If one does not know what a private nuisance at common law is and the MMC does not define the term, then should one assume that all private nuisances are public nuisances? I believe that this section needs clarification.

#### Citizen complaints

This section states that any aggrieved person may file a written complaint alleging that a violation of the MMC has occurred. My questions pertain to violations of the code. Code violations would not be consistent with permits that are consistent with the code. Please answer my question, which is about an apparent contradiction. If several individuals file separate complaints are the cases combined? If so, is each individual notified of the progress of the complaint or is the information given to one individual who is expected to inform the other complainants?

#### PARAGRAPH TWO

A flagpole is an accessory structure. Has this department never had a complaint about an accessory structure? Prior to my meeting with Mr. Koenig on 9-7-2016 I sent an email dated 8-30-2016 suggesting that he review the matters that I wished to discuss. At this meeting, the answers that I received were reportedly the department's positions on many matters including flagpoles. If he had no idea about how

to handle a flagpole complaint, how can his statements to me have any validity? I find the need that this matter be reviewed by the staff somewhat puzzling based on the impression that Mr. Koenig exhibited at our meeting. If his response was going to exceed 3 weeks one might expect an update. I waited over 4 weeks to request an update and certainly some of the minor issues should have been answered by then. For example, researching whether a construction permit was issued would require very little time or effort. Between 9-7-2016 and 10-7-2016 this property was reportedly inspected, possibly several times and at least one picture was taken. What were the results of these inspections and the picture which should have shown a flying flag?

I believe that I have never requested an expedited processing of this complaint. I relied on your estimate. I did point out the unexpected, lengthy delays. As the Director, your estimate should be reasonable and if not I should have been informed. Why would your department inspect this property apparently within 5 working days when you were apparently unable to adequately investigate this property in over 5 weeks? Prior to the recent mailing of the enforcement letter were the owners contacted? Was a door hanger left? Was a close physical inspection of this pole conducted and did your inspector not notice the light and rotating flag collars? The light is visible in the photograph that you sent to me in the 10-17-2016 email.

### PARAGRAPH THREE

I do not believe that my complaint mentions any noise issue. I believe that my wife's complaint mentions the noise from these flags. I want our cases to be separate and I do not want responses that should be directed to her sent to me. Please discuss any noise comments with my wife. I believe that if I am asked a question that as a typical act of courtesy that I should reply to the question. I have not discussed this noise issue with my neighbor and I do not believe that in my dealings with Mr. Koenig that I mentioned the noise issue. I do not intend to discuss the noise issue with my neighbor. I know for a fact and based on my and my other neighbors' and friends' experiences that discussing a noise issue is not the quickest way to solve a noise problem. It is nice that you encourage neighbors to work out noise issues, but there are noise nuisance laws. I do not believe that my complaint mentioned a noise issue and I did not mention the noise issue until earlier in this statement. If I did, please advise me of the emails on which these comments appear, and where on my complaint noise issues are mentioned.

As I discussed with Mr. Koenig, I did not want to proceed with a complaint about the violations that are present (not obtaining a construction permit and the violation of the setback requirements) without first consulting with him. Based my conversations with Mr. Koenig and Mr. Koenig's statements on 9-7-2016, I had no doubt that both violations were valid. Although a thorough investigation may not agree with my conclusions, I deserve a reasonable and timely response. I am amazed that such a simple investigation could take this much time and require so much effort and time on my part. I believe that I should have received many more updates with respect to the reasons for the delay and the lack of any substantial progress. I also believe that I should have received thorough and complete responses to my questions. I would appreciate a response by email to each of the issues and questions that are presented in this document.

I believe that the fact that I had to prepare this multipage response to a three paragraph email illustrates serious problems with this department and the director of this department. I would like a response from Gloria Hirashima explaining the basis of her review of this matter and her conclusions regarding the inadequate service, and contradictory and inadequate responses that I have received in this matter.

Thank you,  
Evan Kaiser

The responses to both Evan's and Patricia's emails dated 11-15 are dated 11-18. **Exhibit D.** Evan and Patricia sent separate mails on 11-15 and both received separate responses on 11-18. We included a copy of the 11-9 letter. in **Exhibit D** We believe that anyone reading these responses will see that many of our questions were not answered. In addition, Mr. Koenig has repeatedly included statements in his replies that inform us to actions that he has taken and which we are completely aware of. The problems are his failure to act and his inability to answer questions.

On 11-15 we asked that the director review sections of the MMC, the WACs and the RCWs. His response to Patricia's email dated 11-15 is dated 11-18 and clearly indicates that he has misinterpreted or misunderstood these sections.

The last sentence in his email **Exhibit D** to Patricia dated 11-18 states: "If the new flag in the new location is perceived as too loud in you home by you, we can have someone go into your house and take noise measurements."

Listed below are the applicable MMCs and Mr. Koenig's statement is clearly incorrect. Property boundary is clearly defined and noise shall not intrude into the property of another person, not the home. The codes should be enforced as written, not subject to an employee's incorrect interpretation.

MMC 6.76.020 Definitions.

(5) "Property boundary" means the surveyed line at ground surface, which separates the real property owned, rented, or leased by one or more persons, from that owned, rented, or leased by one or more other persons, and its vertical extension.

(6) "Receiving property" means real property within which the maximum permissible noise levels specified herein shall not be exceeded from sources outside such property.

MMC 6.76.040 Maximum permissible environmental noise levels.

No person shall cause or permit noise to intrude into the **property** of another person which noise exceeds the maximum permissible noise level set forth in WAC 173-60-040, which section is hereby adopted by reference. (Ord. 1419 § 4, 1985).

The council has approved these codes. Can Mr. Koenig change these codes and ignore the council's directives?

We believe that the "enforcement" letter issued on 11-4 does not conform to section 4.02.040 which is listed on Evan's 11-15 email. Also listed on the 11-15 email is Item number 5 Inspections of section 4.02.040. Was this section strictly adhered to during this investigation? We believe that the director's conclusion that a telescoping flagpole in the lowered position is not a flagpole is not realistic or supportable. These telescoping flagpoles should be lowered when wind velocities increase. In this lowered position, this flagpole is still a flagpole.

Third Issue

This is simply a question about who can change the MMCs. MMC 16.04.046 Table 1A. A \$50 fee was paid for the building permit that was issued for this flagpole. This code section indicates in table 1A, item 1A the following: Plan review fees (paid at the time of submitting plans) equal to 65% of the building permit fees. The plan review fee should be \$32.50 and none was charged, violating current code. Evan was informed that for all future flagpole permits the total

fee including plan review will be \$50. This policy will violate this code. A plan review is not a structural review. A structural review was required but one was not completed. Can city employees change these code requirements?

Please review our data and inform us of your decision.

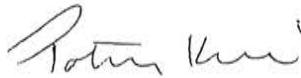
Someone may consider the following to be nit picking. Please correct us if the following is incorrect. Based on our research the word flagpole is a word with a definition. We searched for ways to include flag pole in a sentence and were unable to find any suggestions. We were not able to find a definition for a flag pole. The definition of a flagpole refers to a flagpole not a flag pole. If we are correct the city should be embarrassed if their codes, which will be revised, state flag pole rather than flagpole.

Processing this complaint should have required little time or effort by us.  
We have spent in excess of 150 hours and used over 400 sheets of paper to date.

Sincerely yours,



Evan Kaiser 11-28-2016



Patricia Kaiser 11-28-2016

**From:** [roumx@comcast.net](mailto:roumx@comcast.net) [<mailto:roumx@comcast.net>]  
**Sent:** Wednesday, December 21, 2016 10:27 AM  
**To:** Janis Lamoureux <[jlamoureux@marysvillewa.gov](mailto:jlamoureux@marysvillewa.gov)>  
**Subject:** Questions

Planning Department  
Marysville, WA  
To: Janis Lamoureux

The website states that I should contact you with questions about the planning commission, and I have several questions. Can the head of the planning department or any other member of the planning department or planning commission answer these questions? If so, I would like to have a reasonable estimate as to when I might receive a reply to these questions. During the holiday season, responses may often be delayed. I am requesting a reasonable estimate, not a definite time in which I might receive a replay. This is not a complaint, but a request for information.

These members are appointed by the mayor and city council. Does the city have on file a list of the qualifications, educational background, or any pertinent experience in planning for each member and if so, is this information available on the website or at some city office?

Are any city employees members of this commission?

Are any city employees required to attend these meeting and if so, please list the employees' names and their departments? As an alternative, if this information is available on the website or in the MMC, you may just supply me with this information.

One of the duties of this commission is to review all proposed amendments to the city zoning code, subdivision code and shoreline management code. Title 22 of the MMC is the UDC. Does the planning commission or the planning department make, review and submit to the city council all of the codes in the UDC?

Mrs. Hirashima has informed me that the planning commission will be addressing the current codes for flagpoles and possibly other codes in the UDC. I would like to know, when available, the meeting dates at which any of these code changes, or additions, will be discussed.

Mr. Koenig and Ms. Hirashima are aware that there are several codes that need clarification. I have found the wording in many of the codes in the UDC to be contradictory and, or confusing. Listed below are two codes that I believe are contradictory. These codes were apparently prepared by and reviewed by some employee, the planning commission and the city council. I believe that I know how such a confusing statement was inserted into the codes. Anyone can make a mistake. I believe that this problem is not a mistake, but the result of the procedures used to make changes to the MMC. Do you believe that these statements are contradictory or

confusing? Should these codes be clarified? What measures do you believe should be instituted to insure that such problems are eliminated or reduced in the future?

### **22A.020.200 “S” definitions.**

“Sign” means any device, fixture, or placard that is visible from a public right-of-way or surrounding properties and uses graphics, symbols, logos, or written copy conveying a message or image and used to inform or attract the attention of the public, such as advertising or identifying an establishment, product, goods, service or activity. A sign may have multiple faces and advertise multiple on-premises establishments, businesses, products, services, or activities. **This definition does not include any flag of any country, state or local jurisdiction.** Unless the context clearly provides to the contrary, a “sign” as used in this chapter also includes the “sign structure.”

(Ord. 2955, 2014; Ord. 2870 § 5, 2011; Ord. 2852 § 10 (Exh. A), 2011).

### **22C.160.080 Exemptions.**

**The following signs are exempted from obtaining a sign permit**, but must comply with all other requirements of this chapter and with the specific requirements set forth below for each type of sign:

**(11) The flag, emblem or insignia of a nation or other governmental unit or nonprofit organization,**

subject to the guidelines concerning their use set forth by the government or organization which they represent.

Flag poles require a construction permit for structural review. (Ord. 2852 § 10 (Exh. A), 2011).

If a flag is not a sign, why does item 11 exempt these signs (flags) from obtaining a sign permit? Would the 12<sup>th</sup> man flag be a sign? The 12<sup>th</sup> man flag is not a **flag of any country, state or local jurisdiction** but is a **flag, emblem or insignia of a nonprofit organization.**

You may think this is petty, but the word is flagpole, not flag pole.

Thank you,

Evan Kaiser

**From:** David Koenig  
**Sent:** Thursday, December 22, 2016 12:54 PM  
**To:** 'roumx@comcast.net' <[roumx@comcast.net](mailto:roumx@comcast.net)>  
**Subject:** Response to email to Janis Lamoureux

Mr. Kaiser

This is the response to your email to Janis Lamoureux received on Wednesday December 21, 2016.

Information about the Planning Commission from the Marysville Municipal Code is below. This includes information on the City Council review of Planning Commission actions. Planning Commission is an advisory committee to the City Council and all the Marysville Municipal Code is approved by the City Council.

There are no city employees serving on the Planning Commission. Planning staff in the Community Development Department provide staff support for the Planning Commission and provide them staff reports and respond to information requests to help them make a recommendation to the City Council. Staff attend as needed. An example is the City Engineer attends when there are transportation and utility infrastructure topics to support Planning Staff. The minutes of the Planning Commission has a record of the staff who are in attendance at each Planning Commission meeting. These minutes can be found at the link below.

The next Planning Commission meeting will be January 10 in the City Council Chambers and they will be starting their review of the flagpole code related topics that evening. Additional meetings would be scheduled in the future. All meetings are open to the public and the public is encouraged to attend. The Planning Commission meets on the 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of the month, as needed. Additional information about the Planning Commission may be found at:

<http://www.marysvillewa.gov/259/Planning-Commission>

Thank you for providing your thoughts on the code. Your email correspondence of Wednesday December 21, 2016, will be provided to the Planning Commission. Your questions and thoughts about the code expressed in your email will be provided to the Planning Commission for their consideration.

**Chapter 22G.050**  
**PLANNING COMMISSION**

Sections:

22G.050.010 Planning commission created.

22G.050.020 Appointment of members – Term of office.

22G.050.030 Expenses.

22G.050.040 Meetings – Officers – Rules.

22G.050.050 Quorum – Voting.

22G.050.060 Conflicts of interest.

22G.050.070 General powers and duties.

22G.050.010 Planning commission created.

Pursuant to RCW 35A.63.020, there is hereby created a city planning commission, which shall serve in an advisory capacity to the mayor and city council, and shall have such other powers and duties as may be provided herein or delegated to it by the mayor and city council. (Ord. 2852 § 10 (Exh. A), 2011).

22G.050.020 Appointment of members – Term of office.

The planning commission shall consist of seven members who shall be appointed by the mayor subject to confirmation by the city council. Members shall be appointed without regard to their political affiliation, and shall serve without compensation except as hereinafter provided. At least a majority of all commission members, at any time, shall be residents of the city. All members of the planning commission shall reside within the city's urban growth area. The term of office of each member shall be six years; said terms shall be staggered so that no more than two positions become vacant in any year. A commissioner may be removed from office by the mayor for inefficiency, negligence of duty or misconduct in office. (Ord. 2852 § 10 (Exh. A), 2011).

22G.050.030 Expenses.

The planning commission, as a body, or individual members thereof, may be reimbursed for actual and reasonable expenses in the performance of their duties in behalf of the commission. Such expenses may include, but are not limited to, such items as: travel and subsistence, registration fees and other costs incidental to meetings and conferences, professional and consulting services, educational fees, dues and assessments of professional planning organizations, subscriptions to periodicals and purchases of informational and educational texts, and similar expenditures that may be deemed necessary to increase the efficiency and professional ability of the members of the commission. Planning commission expenses shall be subject to authorization and approval by the city council. (Ord. 2852 § 10 (Exh. A), 2011).

22G.050.040 Meetings – Officers – Rules.

The planning commission shall annually elect a chairman from among its members. The commission shall hold at least one regular meeting in each month for not less than nine months each year. Regular meetings shall be open to the public, and shall be scheduled for a regular time and place. Notice of time, place and purpose of any special meeting shall be given as provided by law. The commission may adopt rules for transaction of business, and shall keep a written record of its public meetings, transactions, findings and determinations, which record shall be a public record. (Ord. 2852 § 10 (Exh. A), 2011).



#### 22G.050.050 Quorum – Voting.

A majority of the duly appointed and acting members of the planning commission shall constitute a quorum for the transaction of business. With a quorum being present, the commission may take action on any business upon an affirmative vote of a majority of those commissioners present. The chairman shall be entitled to a vote on all business. (Ord. 2852 § 10 (Exh. A), 2011).

#### 22G.050.060 Conflicts of interest.

Any member of the planning commission with a conflict of interest, or an appearance of fairness problem, as defined by Chapter 42.36 RCW, with respect to any matter pending before the commission, shall disqualify himself from participating in the deliberations and the decision-making process with respect to the matter. If this occurs, the mayor, subject to confirmation by the city council, may appoint another person to serve as a commissioner pro tem in regard to that matter. (Ord. 2852 § 10 (Exh. A), 2011).

#### 22G.050.070 General powers and duties.

The planning commission shall have the following powers and shall perform the following duties:

- (1) Prepare a comprehensive plan for anticipating and influencing the orderly and coordinated development of land and building uses of the city and its environs; hold public hearings on said plan, and any amendments thereto, and make recommendations to the city council;
- (2) Divide the city into appropriate zones within which specific standards, requirements and conditions may be provided for regulating the use of public and private land, buildings and structures, and the location, height, bulk, number of stories and size of buildings and structures, size of yards, courts, open spaces, densities of population, ratio of land area to the area of buildings and structures, setbacks, area required for off-street parking, protection of access to direct sunlight for solar energy systems, and such other standards, requirements, regulations and procedures as are appropriately related thereto; hold public hearings on the adoption of zoning ordinances and maps, and amendments thereto, and make recommendations to the city council;
- (3) Prepare a shoreline management master program for the shorelines of the city, and a shoreline environment designation map, as required by state law and city ordinance; hold public hearings on the same, and any amendments thereto, and make recommendations to the city council;
- (4) Review all proposed amendments to the city zoning code, subdivision code and shoreline management code; hold public hearings thereon, and make recommendations to the city council;
- (5) Conduct, on its own initiative or upon request by the mayor or city council, investigations into matters relating to the physical, economic and environmental development of the city, and public works and civic improvements, and submit reports and recommendations to the mayor and city council with respect to the same;

(6) Perform such other duties or responsibilities as may be specifically delegated by the mayor or city council. (Ord. 2852 § 10 (Exh. A), 2011).

**22G.020.040 Planning commission review.**

All proposals falling within the scope of the chapter will be introduced to the Marysville planning commission, which may schedule workshops as needed to consider the proposal. City staff may prepare a report and recommendations to the planning commission. Prior to making a recommendation to the city council, the planning commission shall schedule a public hearing pursuant to the procedures set forth in MMC 22G.020.060. After the public hearing and any further study sessions as may be needed, the planning commission shall transmit its recommendation to the city council through the community development department. (Ord. 2852 § 10 (Exh. A), 2011).

**22G.020.050 City council review.**

Following the review by the planning commission, the city council shall consider at a public meeting each recommendation transmitted by the planning commission. The city council may hold its own public hearing pursuant to the procedures set forth in MMC 22G.020.060.

Following such public meeting and/or public hearing, the city council may take any one of the following actions:

(1) Adopt the recommendation of the planning commission without changes.

(2) Adopt the recommendation of the planning commission with changes.

(3) Remand the recommendation or parts thereof to the planning commission for further review. In the event the city council remands a matter for further planning commission review, the council shall specify the time within which the planning commission shall report back to the city council with a new recommendation. All entities involved shall comply with the timelines unless the city council approves a request for extension of time.

(4) Any action by the city council shall be adopted pursuant to ordinance or resolution; provided, however, in the event the city council denies or disapproves any recommendation it may be done by motion. (Ord. 2852 § 10 (Exh. A), 2011).

**Dave Koenig** | Community Development Director

**CITY OF MARYSVILLE**

Community Development Department  
80 Columbia Avenue  
Marysville, WA 98270

360-363-8100 Office  
360-363-8211 Direct Line  
360-651-5099 Fax

[dkoenig@marysvillewa.gov](mailto:dkoenig@marysvillewa.gov)  
<http://marysvillewa.gov>

**From:** [roumx@comcast.net](mailto:roumx@comcast.net) [<mailto:roumx@comcast.net>]  
**Sent:** Tuesday, January 17, 2017 8:16 AM  
**To:** Janis Lamoureux <[jlamoureux@marysvillewa.gov](mailto:jlamoureux@marysvillewa.gov)>  
**Subject:** Please forward this to the planning commission members

City of Marysville  
Planning Commission

I am including some information that you might find is relevant to the flag and flagpole code revisions that you will be considering.

I was informed that I could not address the items on the agenda for 1-10-2017 since this was a work session. When I spoke during the meeting, I attempted to convey to you the following: Many documents from me and my wife were sent to you. Some of them have information that is not relevant to the code revision matters. Source documents were not included for some of these documents. The exclusion of these documents would make comprehension of many of our statements difficult. For example, consider the letter to Ms. Hirashima dated 11-8-2016. Without the emails submitted to Ms. Hirashima, how can one know what I am referring to when I reply to Mr. Koenig's email? That was the point that I wanted to suggest to you. The source documents should have been included to provide you with a clear and complete picture.

There are very few codes regarding flags and flagpoles and many of the existing codes are self contradictory and confusing. Ms. Gemmer now has MMC 22C.160.070 Prohibitions and this code appears to ban all flags from the city. Review of this section will be completed by the planning department.

The planning department and possibly the planning commission might want to reference: The United States Flag: Federal Law Relating to Display and Associated Questions Updated 1-24-2011. This is on the internet. Also, RCW 64.38.033, RCW 9.86.010, 9.86.020, and 9.86.030 and other related material. .

If the planning members would access the internet they would find many informative articles about flags and flagpoles. Many of the hazards created by flying flags that are too large, poorly manufactured flagpoles and the improper installation of flagpoles are described. The flagpoles that created the need to revise these codes were EZPOLE flagpoles and this website ([ezpole.com](http://ezpole.com)) does suggest the manufacturer's suggested height limits based on the type of home and lot size. The suggested heights are 13, 17, and 21 feet. 21 feet exceeds the current code limit of 20 feet. Should reasonable height limits be considered based on the actual locations of flagpoles? For example a small, irregularly shaped front yard of about 300 square feet on a 7,000 square foot lot versus a large rectangular shaped front yard of 1,000 square feet on a 7,000 square foot lot. Should there be different limits for one acre and larger sites and large estates?

## Flags

**Example Definition---**A **flag** is a piece of fabric (most often rectangular, triangular or quadrilateral) with a distinctive design that is used as a [symbol](#), as a signaling device, or as decoration. Should the definition be specific and determined by planning commission?

Three of the many factors to consider are the size of flags, the types of flags and flagpoles.

Size of flags.

Without limits someone can display a 20 x 40 foot wide flag. Is such a flag size reasonable for a single family home located on a lot of less than one acre? What about on a 20 acre site? Should the city establish the size of the flags that can be flown or just rely on the manufacturer/s recommendations or any individual's decision?

Types of flags

1. Types of flags that are allowed. Can the city impose any restrictions? Contact city attorney? Limit to Flags of any nation, state, or local jurisdiction? Can the following be restricted or allowed: nautical flags, custom made flags promoting or criticizing anything like gun ownership and any other causes, the KKK, historical flags? Etc.

Should the Code allow only those that you want to allow and which can be legally restricted?

Current code 22A.020.200 Presently, clearly states that any flag of any county, state or local jurisdictions is not a sign. Therefore, they can be flown. Should this definition be eliminated?

**Non profit organizations**—should these be flags or signs? Some types of non profits: Endangered Species International, Project Homeless, Shanti Project, Global Washington, 501 Commons, 12<sup>th</sup> man flag and any other sports team's flags or banners.

Should citizens be exposed to 24 hour displays of these types of flags?

Flagpoles

1. Should flagpoles be allowed on single family residential lots?

2. Definition of flagpoles

22A.020.070

Definition is a complex problem due to many sizes, types and designs. #1 and #2 What is tall? 3', 6', 40 feet?

#3 Is this the best definition? Would include the small types of flagpoles that can be attached to a house or a fence or a structure. Any codes would then apply to these small flagpoles. Should the Code differentiate between these types of flagpoles and possibly limit size and placement of both types of flagpoles?

Should flagpole construction be limited by the type of material used in the construction?

Could one build a 30 foot flagpole out of wood under the current or revised code?

Should flagpoles require a building permit and a structural review by a structural engineer? China has produced many inferior products such as sheetrock and laminated flooring that were installed and that had to be removed from homes. Should any manufacturer/s instructions for the installation of flagpoles in concrete foundations be reviewed by a structural engineer?

Should the new code limit the number of flagpoles that can be installed on a lot?

Someone might want 2, 3, or 10 flagpoles to display many flags.

### Height Limit of flagpoles.

22c.010.220 This code refers to 22c.010.080 and the only height limit that I find in this code is the base height of 30 feet. This code does reference codes 22c.010.100 through 250.

22C.180.020 limits the height of a flagpole to 20 feet for lots less than one acre. Are there current height limits for flagpoles on sites over one acre? The planning department comments appear to indicate that flagpoles will remain classified as accessory structures. Will they remain as accessory structures?

The new code .220 would increase the flagpole height to at least 40 feet and five feet above the highest point of the roof (roof of what?). This 40 foot limit would conflict with the accessory structure limit of 20 feet. Would this new code allow flagpoles of any width depth or diameter? Different height limits are placed on flagpoles of less the five feet in diameter, and those with a diameter greater than five feet. Picture a 40 high flagpole or any structure that is five or more feet in diameter on a very small, irregularly shaped front yard. .

### 22c.010.210

3. This code would conflict with the current set back requirements for flagpoles. The current set back requirements have some problems. For example code .210 would limit flags from flying over adjacent properties, which is good since the present code does not place such a limit. Because of varying wind directions it would be almost impossible to place a flagpole on the property line and not have the flag flying over the adjacent property. Is allowing any of the items mentioned in section 3 to project to the property line advisable? A 30 foot high antenna and all of the other items could be placed right at the property boundary. Shouldn't these items be kept out of the required set back areas? Should consideration be given to removing all of item 3, including the current sentence allowing these encroachments to the property line?

When considering the height of poles, lights, antennas, flagpoles and other items that are 20 feet or more in height should the fall distance be considered? For example someone wants to install a 25 foot flagpole or similar item five feet from the side yard property line. If this flagpole were to collapse onto the adjacent property, damage to an individual or structures on the adjacent property might result. If this flagpole must be located on the subject site at least 25 feet from any adjacent property boundary, only the owner installing this flagpole might be damaged.

### 22c.160.080.

The first sentence clearly states that this section pertains to signs. Therefore, Item 11 now classifies certain flags as signs. The former definition of signs specifically stated that certain flags are not signs. The revised definition of signs eliminates this exclusion. Number 11 and the definition of signs need correction and clarification. Number 11 clearly states that flags emblems or insignia of non profit organizations are signs. This is good if the planning commission wants to prohibit the flags of all of the non profit organizations. Allowing the display of one non profit organization might be difficult to do, if others are excluded. Should the city attorney be contacted to clarify this question?

This revised section allows flagpoles to be constructed without obtaining a building permit. Does the commission agree with this section? This section removes the requirement that flagpoles obtain a construction permit for structural review? Does the commission agree with this section? Should the definition of a structural review be clarified? For example, a structural review is a review of the plans by a licensed engineer? By removing these requirements, is the public safety put at risk?

While reviewing the codes I read section 22c.010.250 Nonresidential land uses in residential zones.

The title refers to nonresidential land uses. Item 4 refers to a dwelling unit which is a residential land use. Should item 4 be included in this section? Is there a more applicable code in which item 4 should be placed?

(4) A single detached dwelling unit allowed as accessory to a church or school shall conform to the setback requirements of the zone.

Sincerely yours

Evan Kaiser



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

## MEMORANDUM

**DATE:** January 20, 2017

**TO:** Planning Commission

**FROM:** Angela Gemmer, Senior Planner

**RE:** 2016-17 Code Amendments: STAFF RECOMMENDATION – Flags and Flagpoles

**CC:** Dave Koenig, Community Development Director  
 Chris Holland, Planning Manager  
 Cheryl Dungan, Senior Planner  
 Amy Hess, Associate Planner

At the January 10, 2017 Planning Commission workshop, proposed amendments pertaining to the treatment of flags and flagpoles were presented. At that workshop, the Planning Commission expressed concerns regarding both the height of flagpoles and the proposed setback requirements. In response to these concerns, revisions to the flagpole regulations were drafted which are set forth below.

When amending flagpole regulations, consideration should be given to the typical placement of single family residences on lots so that regulations do not unduly prevent a property owner from installing a flagpole. For example, since most residences are subject to setbacks of 20' from front and rear lot lines, and 5' from side lot lines, requiring a 20' setback for a flagpole could restrict display of the flagpole to the rear yard if the structure is built at the 20' setback line which is typical for many newer homes.

Additionally, consideration should be given for existing flagpoles, which have remained unregulated within the City of Marysville. In a recent visit through a neighborhood, staff photographed seven (7) existing flagpoles within a quarter mile radius that would be non-conforming if provisions for flagpoles are too restrictive (see attached).

### **Amendment 7**

#### **STAFF RECOMMENDED CODE AMENDMENT:**

#### **DEFINITIONS**

##### **22A.020.070 "F" definitions.**

"Flagpole" a tall pole from which a flag hangs.

##### **22A.020.200 "S" definitions.**

"Sign" means any device, fixture, or placard that is visible from a public right-of-way or surrounding properties and uses graphics, symbols, logos, or written copy conveying a message or image and used to inform or attract the attention of the public,

such as advertising or identifying an establishment, product, goods, service or activity. A sign may have multiple faces and advertise multiple on-premises establishments, businesses, products, services, or activities. This definition does not include any flag of any country, state or local jurisdiction. Unless the context clearly provides to the contrary, a "sign" as used in this chapter also includes the "sign structure."

## **RESIDENTIAL ZONES – HEIGHT**

### **22C.010.220 Height – Exceptions to limits.**

The following structures may be erected above the height limits of MMC [22C.010.080](#):

- (1) Roof structures housing or screening elevators, stairways, tanks, ventilating fans or similar equipment required for building operation and maintenance; and
- (2) Fire or parapet walls, skylights, chimneys, smokestacks, church steeples, and utility line towers and poles.
- (3) Flagpoles may rise ten feet above the height limit, or five feet above the highest point of the roof, whichever is greater.

## **RESIDENTIAL ZONES – SETBACKS**

### **22C.010.210 Setbacks – Projections allowed.**

Projections may extend into required setbacks as follows:

- (1) Fireplace structures including eaves and factory-built garden or bay windows may project into any setback, provided such projections are:
  - (a) Limited to two per facade;
  - (b) Not wider than 10 feet; and
  - (c) Not more than 24 inches into a side setback or 30 inches into a front or rear setback;
- (2) Uncovered porches and decks, including stairs, which exceed 30 inches above the finished grade may project:
  - (a) Eighteen inches into side setbacks; and
  - (b) Five feet into the front or rear setback;
- (3) Uncovered porches and decks not exceeding 30 inches above the finished grade, and uncovered accessory structures such as radio antennas and dishes, mechanical equipment, play structures, and tennis courts, may project to the property line, provided that, with the exception of uncovered porches and decks, the front property line setback for the zone shall be observed;
- (4) Eaves may not project more than:
  - (a) Twenty-four inches into a side setback;
  - (b) Thirty-four inches into a front or rear setback; or
  - (c) Eighteen inches across a lot line in a zero lot line development.
- (5) Accessory structures such as flagpoles and lampposts shall be setback a minimum of five feet from all property lines, provided
  - (a) They are not located within a utility or access easement, and;
  - (b) Flags are not displayed in a manner that would cause the flag to encroach onto a neighboring property.

## **COMMERCIAL ZONES**

### **22C.020.190 Height – Exceptions to limits.**

The following structures may be erected above the height limits of MMC [22C.020.080](#)(2):



- (1) Roof structures housing or screening elevators, stairways, tanks, ventilating fans or similar equipment required for building operation and maintenance; and
- (2) Fire or parapet walls, skylights, chimneys, smokestacks, church steeples, flagpoles and utility line towers and poles.

## **SIGN CODE**

### **22C.160.080 Exemptions.**

The following signs are exempted from obtaining a sign permit, but must comply with all other requirements of this chapter and with the specific requirements set forth below for each type of sign:

- (1) A change in the face of the sign or advertising copy of an existing, legally permitted, sign.
- (2) Temporary and special event signs meeting the requirements of MMC [22C.160.230](#).
- (3) On-premises and portable commercial or real estate signs meeting the requirements of MMC [22C.160.230](#)(5) and (6).
- (4) Political signs meeting the requirements of MMC [22C.160.230](#)(7).
- (5) Nonelectric signs not exceeding four square feet per face, which are limited in content to the name of occupant and address of the premises in a residential zone.
- (6) Instructional signs, not exceeding six square feet per sign; provided, that foundation, anchorage, attachments and other structural support of the sign and electrical connection require construction permits.
- (7) Menu signs. Foundation, anchorage, attachments and other structural support of the sign and electrical connection require construction permits.
- (8) Seasonal decorations. Reasonable seasonal decorations within an appropriate holiday season or during a festival are exempt from this section as long as such displays are removed promptly at the end of the holiday season or festival.
- (9) Sculptures, fountains, benches, lighting, mosaics, murals, landscaping and other street furniture and design features, which do not incorporate advertising or identification.
- (10) Signs not visible from public way. Exterior and interior signs or displays not intended to be visible from streets or public ways, signs in the interior of a building more than three feet from the closest window and not facing a window, window displays and point of purchase advertising displays such as vending machines.
- ~~(11) The flag, emblem or insignia of a nation or other governmental unit or nonprofit organization, subject to the guidelines concerning their use set forth by the government or organization which they represent. Flag poles require a construction permit for structural review.~~
- ~~(112)~~ Traffic or other municipal signs, signs required by law or emergency services, railroad crossing signs, legal notices, and any temporary signs specifically authorized by the city council or authorized under policies and procedures adopted by the city council.
- ~~(1213)~~ Signs of public utility companies indicating danger or which serve as an aid to public safety or which show the location of underground facilities or of public telephones.
- ~~(1314)~~ Memorial signs or tablets, names of buildings, stained glass windows and dates of erection when cut into the surface of the facade of the building or when projecting not more than two inches.
- ~~(1415)~~ Incidental signs, including, but not limited to, "no trespassing," "no dumping," "no parking," "private," signs identifying essential public needs (i.e., restrooms, entrance, exit, telephone, etc.) and other information warning signs, which shall not exceed three square feet in surface area.

~~(1516)~~ Flush-mounted wall signs which are used to identify the name and address of the occupant for each dwelling, provided the sign does not exceed two square feet in sign area.

~~(1617)~~ Gateway entrance signs. Gateway entrance signs that comply with the city of Marysville gateway master plan. Foundation, anchorage, attachments and other structure support of the sign and electrical connection require construction permits.

Community Development staff requests the Planning Commission review the revised STAFF RECOMMENDED amendments related to flags and flagpoles, and provide direction on finalizing the proposed amendments.









**From:** [roumx@comcast.net](mailto:roumx@comcast.net) [<mailto:roumx@comcast.net>]  
**Sent:** Wednesday, January 11, 2017 8:34 AM  
**To:** Jon Nehring <[jnehring@marysvillewa.gov](mailto:jnehring@marysvillewa.gov)>  
**Subject:** Many

City of Marysville, WA  
Office of the Mayor

From: Evan and Patricia Kaiser  
Please respond by email

Dear Mayor Nehring,

After reviewing this data, could you please give us a reasonable estimate of when we might expect a completed reply? We would appreciate a response to our questions about the three codes mentioned in the first three pages of this email as soon as possible and this answer can be provided without a response to the remaining questions.

We are addressing this email to you because you are a full time city employee who presides over the council meetings. We believe that this message addresses at least two of your stated priorities which are as follows:

*Maintaining public safety as a top priority and ensuring that integrated and innovative approaches to policing are responsive to community needs and built around a partnership of trust between citizens and police personnel.*

*Maintaining customer service, transparency and accountability in city government, and prioritizing constituent issues with prompt response*

The city now knows that code revisions are necessary and that there were a limited number of codes pertaining to the construction of flagpoles and the display of flags. Revision of some codes will occur and the implementation of more should result from the review process. Many safety issues were not addressed by the current codes. These actions were taken as a result of the complaints that we filed and the questions that we asked. There are several more problems present in the various city departments, and the MMC, which we will address in the future.

The mention of individual names and actions in this statement is not a personal attack on these people. We do question some of the city employees' decisions, actions and refusal to act. We present these matters to notify you of these matters, for you and the council members to review and for all of you to decide if constructive measures are warranted

The city has many competent, helpful, knowledgeable and efficient employees. Over the years we have met several and recently, many more. As with any organizations there are employees who do not always meet these standards.

This is not a complaint, but a request for information and a statement to you and the council. We know that you, personally cannot answer all of these questions, but we believe that we deserve answers to these questions. Our questions and this statement do reveal a lack of attention to detail by several employees and does request the facts on which certain decisions were based. This is a long statement that covers many items and includes comments regarding a three month process that according to Mr. Koenig should have been resolved in 2 to 3 weeks. We agree with Mr. Koenig's estimated time of completion, which was not achieved.

As with all organizations the city is a functioning entity and better, more efficient policies can be instituted. We do have some suggestions that if adopted will result in clarification and possibly revision of existing city policies which should reduce city expenses. We will be presenting these suggestions to the council in the future. We are interested in improving city government and contributing constructive changes to provide a better, overall living environment in Marysville.

We believe that our statements indicate that there are some serious problems that exist in the Community Development Department and that the council should be made aware of these problems. The council cannot be aware of every interaction between the public and city departments and every process or policy of every city department. We believe that based on the information that is included in this statement and information that will be provided to you soon, that at some time in the near future someone outside of this department should review some of the procedures and actions of some of the management and employees in this department. Many of the reasons for the statement made in the previous sentence are presented here and in our previous emails to various city employees.

We do refer to Mr. Koenig and our comments about him are based solely on our experiences with his job performance. This is not a complaint. We believe that the council should be made aware of some of the decisions, interpretations and lack of responses that occurred during the investigation of our complaints. Mr. Koenig has many discretionary powers that, when exercised, may have a significant impact on the city. He should be able to justify his statements and decisions and his written responses to questions should be complete, accurate, and comprehensible. We mentioned most of our disagreements with his conclusions, analysis, statements and logic in previous statements, but several more and different ones are listed in this statement.

#### Confusing and contradictory codes.

Currently, our main concern is the 21 foot high flagpole at 2914 73<sup>rd</sup> Ave. NE that was relocated from the previous illegal location to a nearby location. Mr. Koenig approved this height even though the code restricts flagpoles to 20 feet. We do have some questions about this approval, which are included later in this statement. The new location of this flagpole will not reduce the noise generated by this flag and the illegal sign that are displayed. We have no desire to restrict the legal display of our nation's flag, or the 12th man flag (a sign). We did and will object to any excessive noise levels



created by the display of the flag and the 12th man sign. The U.S. flag and 12<sup>th</sup> man banner or flag are displayed 24 hours a day. The following codes clearly define the 12th man flag as a sign and contain contradictory statements about the status of the U.S. flag as a sign. These types of signs are prohibited in residential neighborhoods. We are not attorneys but believe that our statements in the last two sentences are correct based on the existing codes. These are the current codes and we would like responses to our questions based on these codes. We previously requested responses to these questions and have received no clarification of these codes.

#### 22C.160.070 Prohibitions.

The following signs are prohibited in the city and are subject to the specific prohibitions, requirements, and exceptions set forth below for each type of sign:

(9) Streamers, pennants, and banners. Displays of **banners**, festoons, **flags**, posters, pennants, ribbons, streamers, strings of lights, chasing strobe or scintillating lights, flares, balloons, bubble machines and similar devices are prohibited when the same are visible from any off-site location, including but not limited to any public right-of-way, except as provided in MMC [22C.160.230](#). Where such signs or devices are not visible from off site, this prohibition does not apply. *This code apparently prohibits all flags. If so, why are flags flying on any flagpole?*

#### 22A.020.200 “S” definitions.

“Sign” means any device, fixture, or placard that is visible from a public right-of-way or surrounding properties and uses graphics, symbols, logos, or written copy conveying a message or image and used to inform or attract the attention of the public, such as advertising or identifying an establishment, product, goods, service or activity. A sign may have multiple faces and advertise multiple on-premises establishments, businesses, products, services, or activities. **This definition does not include any flag of any country, state or local jurisdiction. Unless the context clearly provides to the contrary, a “sign” as used in this chapter also includes the “sign structure.”** (Ord. 2955, 2014; Ord. 2870 § 5, 2011; Ord. 2852 § 10 (Exh. A), 2011).

#### 22C.160.080 Exemptions.

**The following signs are exempted from obtaining a sign permit**, but must comply with all other requirements of this chapter and with the specific requirements set forth below for each type of sign:

**(11) The flag, emblem or insignia of a nation or other governmental unit or nonprofit organization**, subject to the guidelines concerning their use set forth by the government or organization which they represent. Flag poles require a construction permit for structural review. (Ord. 2852 § 10 (Exh. A), 2011).

If a flag, emblem or insignia of a nation or other governmental unit or nonprofit organization is not a sign, why does item 11 exempt these signs (flags) from obtaining a sign permit? The 12<sup>th</sup> man flag is not a **flag of any country, state or local jurisdiction** but is a **flag, emblem or insignia of a nonprofit organization**. Based on these codes definition, the 12<sup>th</sup> man flag is a sign. If the 12<sup>th</sup> man flag is a sign, the flagpole is a sign structure and a sign structure is prohibited in a residential neighborhood. Quoting 22A.020.200: “Unless the context clearly provides to the contrary, a “sign” as used in

this chapter also **includes the “sign structure.”** Displaying the 12<sup>th</sup> man flag would require removal of the flagpole (the sign structure). Are these codes clear? If so, is a U. S. Flag a sign? Is the 12<sup>th</sup> man flag a sign? These codes may be revised soon, but until revised these are the current codes. These questionable definitions would have had no effect on the processing of our previous complaints. The codes that were violated in our previous complaints are very clear.

We believe that the 12<sup>th</sup> man flag/banner is a sign per the above codes. Mr. Koenig was supplied several pictures showing this 12<sup>th</sup> man sign. Why did Mr. Koenig not inform the homeowner that such a display is not permitted by the code? We requested clarification of these codes several times and have received no clarification of the city's interpretation of these codes.

If the city wants to allow 12<sup>th</sup> man flags, extensive consideration should be given to the other types of non profit organizations that could request the same treatment. Does the city want flags of various non profit organizations displayed on 21 foot high flagpoles in residential areas? Since Mr. Koenig just approved two new installations with this height, how can any other applicant be denied the same consideration?

These codes were written by someone in the city, reviewed by the city attorney and read and approved by the city council. We understand that the council relies on the staff and we believe that the reading and approval of ordinances by the council is based on the recommendations of the staff and not a complete and thorough review of each item by the council. The confusion in these codes is apparently due to a lack of a complete review by the author of these codes, the city attorney and the council. We believe that the council should want to know why these apparently contradictory codes were submitted for the council's approval. We believe that there is a simple explanation for this problem and that explanation is inattention to detail. When revising a code the individuals responsible for creating and approving the codes should at the least review the definitions that are in each chapter.

We have noticed several other codes that exhibit the same problems mentioned earlier and we believe that there are many more codes that are unclear, contradictory or confusing. Ms. Hirashima indicated that certain codes will be addressed at the planning department hearings, so some codes will be revised and or corrected. The problem of poorly worded codes appears to be significantly greater than those that address flags and flagpoles. We would like to know if you believe that the council should be made aware of this problem and institute a more reliable system to eliminate these types of errors in the future? Should the council review the system that presents ambiguous and contradictory codes for their approval? Please email us a list of the codes that Ms. Hirashima has asked the planning department or any other department to review. If you wish, we will, in the future, provide more examples of these types of codes (that are not on Ms. Hirashima's list) for you and the council to review. .

After we contacted Ms. Hirashima, Mr. Koenig's responses to our emails were more prompt and of slightly better quality. Many of our previous questions would not have

been necessary if Mr. Koenig had effectively processed our complaints in the 2 to 3 week time period that he indicated would be applicable. We will explain this sentence later in this statement and in another email to you that includes a time line that is similar to Ms. Hirashima's time line. .

Clarification of parts of our 11-28-2016 statement and questions.

In our statement to the council on 11-28-2016 we stated that we are detailed oriented people. By this statement, we mean that if we submit three questions to a city employee or official, we expect answers to three questions. We expect to receive responses that are complete, factual, supportable, accurate and comprehensible. We should not be required to submit numerous requests for the same information. The fact that we are detailed oriented does not mean that we do not make mistakes.

Ms. Hirashima assured us that the city does investigate and enforce violations of the MMC. Following are some questions to which we would like responses:

We have repeatedly asked for the dates that the code inspectors visited 2914 73<sup>rd</sup> Ave NE. We would like to know why the city cannot answer this simple question. Does the city not have records of these visits?

Are Mr. Koenig's statements that the lack of a flag or a change in the flagpole height somehow changes the status of the flagpole to something other than a flagpole supportable, reasonable or accurate? If these statements can be supported, please supply the logical facts that would verify his statements. On 9-7-2016, he stated that a flagpole is easily recognizable, but since then he has experienced difficulty in identifying this flagpole and the valid code violations that existed. The fact that a building permit was recently issued to relocate the flagpole would certainly contradict Mr. Koenig's statements. Mr. Koenig has many discretionary powers and should be able to justify his statements and decisions.

We would like to know why Patricia Kaiser's noise nuisance complaint was not investigated and have repeatedly requested this information. The main reason that Evan filed his original complaint was because of the noise generated by these flags, and the fact that we did not learn of the noise nuisance codes until later. The flags were still in place when her complaint was filed. The city visited the site and took a picture of the flying flags. If the city had investigated this matter then, the city would have reliable data regarding the noise levels produced by the flags displayed on a 21 foot high flagpole. Such data might have affected the issuance of the future flagpole building permits that were issued to 2914 73<sup>rd</sup> Ave. NE and 2909 73<sup>rd</sup> Ave. NE. Knowing that flags flown at 21 feet produce excessive noise the city might have been given more consideration to limiting the height of flagpoles to a height similar to the flagpole manufacturer's suggested height of 13 feet. Not investigating this noise complaint in a timely fashion has only delayed the investigation. Due to the adjacent, small, irregularly shaped front yard, we advised the city and the homeowner that relocating this flagpole to the new location would not reduce or eliminate the noise nuisance caused by the two flags that are consistently flown from this flagpole. This new location is less than 20 feet

from our property boundary and possible 20 or so feet from the previous location. Noise from the previous location was noticeable more than 50 feet away, and inside our home.

Because the noise generated by the flag and sign at 2914 73<sup>rd</sup> Ave. NE will most likely become a future issue, we would like to know the basis and the procedure that will be followed for this investigation. In an email dated 11-18-2016 Mr. Koenig stated "When the flag pole is relocated with the new lighter flag this should address your concerns. If the new flag in the new location is perceived as too loud in your home by you, we can have **someone go into your house** and take noise measurements."

What facts indicate to Mr. Koenig that this new flagpole location should address our concerns? Is this statement and conclusion based on facts, accurate and supportable? What facts did he consider? Are both the flag and the sign being replaced with newer lighter flags? Is the 12<sup>th</sup> man flag a sign? We informed the city and the homeowner that any new location in this small, irregularly shaped front yard would almost certainly not resolve the noise nuisance issue. Did Mr. Koenig ever visit this site? Did any city employee indicate to Mr. Koenig that based on this new location noise from these two flags would not intrude onto our property and not create a noise nuisance complaint? The nearest property boundary is probably less than 20 feet away from this new flagpole location and noise from the previous location was noticeable inside our home and at distances greater than 40 feet. Did Mr. Koenig notice that in all of the pictures of flying flags that there was a flag and a sign flying? As explained later, this new location will not resolve the noise nuisance issue. A reduction in the flagpole height might cure this problem. Because this is a telescoping flagpole a reduction in height can be easily be accomplished. A restriction on the flagpole height to 13 feet, based on the manufacturer's recommended flagpole height, when the permit was issued, might also have solved this problem.

There are always two flags flying at this site when flags are displayed. Previously the flagpole was always extended to 21 feet when flags were flying. Mr. Koenig states that he will monitor the noise levels inside our house to determine if there is a code violation. Noise levels are not to intrude onto an adjacent property. MMCs 6.76.020. (5) states "Property boundary" means the surveyed line at ground surface, which separates the real property owned, rented, or leased by one or more persons, from that owned, rented, or leased by one or more other persons, and its vertical extension. This code means that for a complaint to be filed, the noise must extend only onto our property, not into our home or house. Will the city investigate and enforce the code as written or can Mr. Koenig change this code with his discretionary powers? If he has this discretionary power, please explain in detail why the city would investigate a noise nuisance violation in the manner that he suggests. We request a response to this question because the flags are now flying 24 hours a day. At noon on 12-29-2016, excessive noise from the flags was noticeable inside the home and as far as 30 to 50 feet inside our property boundaries. We did not investigate any further than the areas and distances mentioned in the preceding sentence. At the same time that these flags were creating noise the flag at 2909 73<sup>rd</sup> Ave. NE was unaffected by the wind. There is a significant difference in

the wind velocities between these two locations. During the night from 1-8-2016 to 1-9-2017 our family members' sleep was interrupted due to excessive noise from flapping flags. This notice to you is not a noise complaint, merely information.

We were confident, and informed the city and the homeowner, that relocating the flags to another location in this small front yard would not eliminate the noise levels that are produced by these flags. The city was not required to approve this new building permit since this flagpole is 21 feet high and the current code height limit is 20 feet. No homeowner has the right to construct a structure that does not conform to the code. According to Ms. Hirashima's reply, Mr. Koenig decided to allow a structure to be installed that exceeded the code height limit based solely on a one foot differential and industry standards. Due to this minor difference such a decision might be considered to be reasonable. Is this one foot difference a variance that must be applied for and notice given to adjacent property owners? This 21 foot height exceeded the manufacturer's recommended height by 8 feet. One might conclude that the manufacturer's recommended heights are industry standards. Why did these employees not consider the manufacturer's recommended height limits? We conclude that these factors were not considered because they are not mentioned in the building permit file or in your response. Was Mr. Koenig's decision the best decision for the city based on the available data? Should 21 foot high flagpoles be permitted on small residential sites? If not, why grant exceptions to two different addresses?

There are actually two flagpoles that were granted this one foot change in height. Does the decision to allow this 21 foot flagpole permanently change the existing 20 foot high limit for all future flagpole installations? If not why was special consideration given to this flagpole and the flagpole at 2909 73<sup>rd</sup> Ave. NE? Was the fact that these two homeowners had already bought and installed, without permits, 21 foot high flagpoles a factor in making this change? Was this a code variance granted only to these homeowners? If this is a variance, were the proper requirements for granting a variance completed? Were the flagpole manufacturer's recommended flagpole height limits reviewed prior to this change? Is the manufacturer's recommended height of 13 feet an industry standard? Flagpoles are lightning rods. How close to gas lines should these flagpoles be located? Was the city aware that this particular lot is exposed to higher wind levels than some surrounding lots? Prior to approval of this building permit had anyone approving this permit visited this site? After visiting this site and before completing this permit did any of the city employees question the advisability of locating a 21 foot high flagpole on this site? Is the 21 foot high flagpole that is located in a very small front yard that is exposed to more wind than surrounding sites advisable? Should the city have considered that a smaller height (similar to the manufacturer's recommendation) would be best for this particular site? Did the city officials have all of this information available to them before granting this height change? Would this completed flagpole with flags flying be aesthetically pleasing (a consideration mentioned in MMC 22A.010.030) to the majority of the populace? Who would determine whether this flagpole is aesthetically pleasing? Shouldn't such factors be considered before making height limit changes? Was the decision to grant this permit the best solution

given the fact that these codes will be soon be reviewed, revised and replaced? Both of these flagpoles were previously installed without the proper permits.

There are many more facts about flagpoles that should have been considered before these permits were granted. These permits are now complete and any future code changes will not apply to these two flagpoles. The city was not required to issue these permits because of the current 20 foot height limit. We present two possible options to Mr. Koenig's decision to allow a one foot exception to the code in order to approve the permits for these two flagpoles.

1) Mr. Koenig should be aware that higher flagpoles expose the flags to higher wind velocities which generate more and louder noise. This telescoping flagpole has adjustable heights of at least 13, 17 and 21 feet. Since the 21 foot high flagpoles would not conform to the current code, why not allow the flagpoles to be installed with a 13 foot height limit (manufacturer's recommended height) as a condition for granting these permits? Did Mr. Koenig or any city official ask either of these homeowners if such a limit would be acceptable to them?

2) The applicants would not have been harmed by delaying the approval and construction of this flagpole. The city could have required that this flagpole and the existing flagpole at 2909 73<sup>rd</sup> Ave. NE. be lowered and kept in the lowered position until new codes were imposed. This would insure that these flagpoles would conform to any newly approved codes. Did Mr. Koenig or any city official ask either of these homeowners this type of limitation would be acceptable to them?

We would like to know the extent to which the city considered various factors in granting these two permits. We do realize that any flagpole permit application that met current codes would have been approved. The city shared our concerns that the present codes were inadequate and indicated that these codes would be updated and clarified within the next three months. Why did the city conclude that these flagpole permits, which required special considerations, should be processed before these possible revisions? Having these two flagpoles conform to any new code requirements would appear to be the best solution.

In her response to us, Ms. Hirashima quotes section 22C.180.020 Accessory structure standards.

(1) Accessory structures on properties less than one acre in size shall comply with the following density and dimensional requirements:

(c) The community development director may allow minor deviations to these dimensional requirements in order to accommodate industry standards for building dimensions.

The basis used by Mr. Koenig to allow the violation of the 20 foot height limit appears to be item c "in order to accommodate industry standards for building dimensions". One would conclude that the 20 foot code height limit was set for specific reasons. There are 21 foot high flagpoles and 20 foot flagpoles listed for sale and both are industry standards. Was this change to allow a 21 foot high flagpole made because two

homeowners already owned 21 foot high flagpoles? One can only conclude from this information that in spite of all the reasons not to allow a 21 foot high flagpole on this site that Mr. Koenig concluded that allowing this minor change was the best conclusion even though this height exceeded the manufacturer's recommended height by 8 feet. One might conclude that the manufacturer's recommended flagpole heights are industry standards. At the least, these recommendations are better than any present code limits. We would like to know the basis and reasoning for Mr. Koenig's decision. One might expect that this information would be in the building permit file, but there is very limited information in this completed file. According to your reply, the basis is a one foot differential. Why were the manufacturer's recommendations, the 20 foot height limit and many other factors not considered? Was a variance for this one foot difference required? If so, why weren't the property variance procedures adhered to in processing this permit? Was Mr. Koenig's decision the best decision for the city based on the available data?

Would you, as Mayor, conclude that all of the facts were considered and that the decision to grant this one foot waiver was in the best interest of the city?

We have now been advised (after three requests for this information) that the plan review or review by a building official is now a structural review. The city made this decision. Evan has seen several structural reviews (a review of structural plans which were always prepared by licensed engineers) and a structural review of the plan submitted to the city would contain many items not available on this plan. The city has made their decision. One can only hope that the definition of a structural review and the data that must be included in a structural review will be changed with a review of this code.

Mr. Dorcas and Mr. Koenig completed this building permit file. Both individuals should set the example for their employees. One might expect that all pertinent data regarding this permit would be in this permit file. Missing from this building permit file are any appropriate comments about the fact that the code height requirement was changed, why it was changed, the applicable code that allows this change and the individual who made this change. There are no comments as to why a 21 foot height was considered to be the best height and why the manufacturer's recommended height of 13 feet was not applicable. There are no comments regarding the fact that the manufacturer's height limits were reviewed, considered or even available to these employees. There should also be comments stating that the plan review is a structural review including the name of the individual making this decision. There are no comments regarding the fact that the plan review fee was waived, why the fee was waived, who waived this fee and the code that allows this person to waive this fee. No one reading this file will ever be aware of these facts.

One might expect to see comments like the following: The flagpole height of 21 feet, which exceeds the code limit of 20 feet, is approved by Mr. Koenig per code section 22C etc. This change is not a variance due to code number xxx and applies only to this permit. These types of comments would clarify some issues. Is this change in height a

variance? If so, was an application for a variance submitted and were the proper procedures followed? If this was a variance the appropriate comments should be in this file. Does this height limit change apply only to this permit? Is a new city wide height limit of 21 feet for flagpoles established by this one foot change?

Additional comments should include a statement that the manufacturer's height limits are not applicable due to the following reasons xxxxx. A plan review fee was not charged for this permit. The appropriate comments regarding the waiver of this fee and the lack of a structural review should be included in this file. These comments might be as follows: This plan review is considered to be a structural review by (employee name). The plan review fee is waived by (name of employee) per MMC number xxx and this fee was waived because a minimal review was needed. If the appropriate comments were included in this file, we would never have questioned this matter and Ms. Hirashima would not have had to waste her time obtaining the answer and responding to our questions. These same questions should be asked about the permit and the lack of the preceding information in the permit file for the flagpole that was granted to 2909 73<sup>rd</sup> Ave. NE. This 21 foot high flagpole permit was issued for the same reasons as the flagpole at 2914 73<sup>rd</sup> Ave. NE.

We have questioned some of Mr. Koenig's previous statements and decisions and his decision to allow this non conforming flagpole to be installed now means that many other flagpoles of the same or a greater height can be installed. The two city employees relied on the manufacturer's plan to make their decision. We believe that we and Mr. Koenig have a limited knowledge of flagpoles and the dangers, construction requirements and other factors that should be considered in determining the code requirements for the MMC. We wonder why Mr. Koenig placed so little emphasis on the manufacturer's recommendations for flagpole height, when he opted to allow the one foot height differential between the MMC and this flagpole. Did Mr. Koenig review the manufacturer's recommendations for flagpole heights, which were readily available? The manufacturer recommends a flagpole height of 13 feet for small single family homes, like the subject, and 17 feet for mid size homes or 2 story structures. The present location is in a very small, irregularly shaped front yard and a 13 foot height is recommended for this type of location. A 21 foot height is recommended for large homes (probably estates) or large areas. Are these recommended heights industry standards? Did Mr. Koenig conclude that although the 21 foot height of this flagpole exceeds, by 8 feet, the manufacturer's recommended height, that the 21 foot height should become a standard height for the city? Please supply us with the reasoning that supports Mr. Koenig's decision to ignore the manufacturer's recommended height limits. One might conclude that pertinent comments would be in the building permit file. One might conclude that the same emphasis would have been placed on the manufacturer's suggested flagpole heights as that placed on the manufacturer's plan for installation. We conclude that Mr. Koenig may not have been aware of the manufacturer's recommended height limits since there is no mention of these facts in Ms. Hirashima's response and the building permit files for 2914 73<sup>rd</sup> Ave NE and 2909 73<sup>rd</sup> Ave. NE.

The city council



We do not want to burden these members with unwarranted problems. We know that there are several problems and policies within certain city departments that are a waste of time and money. We intend to make the council aware of these problems, may be appearing at future meetings and expect that constructive changes will result from the information that we will present. Because of our involvement, and we believe Ms. Hirashima's actions some of the city codes will be revised. There are other sections of the codes that we have reviewed and which may need further clarification. Revising and improving the MMC will result in some minor constructive changes, but more, significant changes need to be made to these types of codes. We will address the comments in the previous sentence in the future.

We have a few questions about the procedures for citizens who wish to speak on matters that are not on the agenda at City Council Meetings.

We tried to obtain as much information on the procedures before speaking at the meeting on 11-28-2016. Evan attended the 11-14 meeting, but no one spoke during the time allotted for comments that are not on the agenda. We were told that each individual can speak for 3 minutes. Before the meeting we presented the 10 copies of our documents to the recorder as we were told to do. We each filed a request to speak and asked if just one of us could speak for six minutes and we were told that this was acceptable. Apparently this information was not relayed to you and you indicated to Evan that he should speak for only 3 minutes. When he replied that he would talk for about five and one half minutes you suggested that he cease speaking until he is at the podium, and we understand why you made this comment. Can one of us speak for the entire six minutes? If so, to avoid any sign of favoritism, perhaps the audience should be advised why one of us will be speaking for six minutes.

Evan then proceeded to read this very abbreviated statement, copies of which were provided to the council. We doubt that anyone listening only to our verbal statement would be able to understand our comments due to their abbreviated form and the time limit. That is why we supplied the council with the lengthy written version. We were not dissatisfied with Ms. Hirashima's responses to our emails, but we believed that the council should be directly informed about the problems with Mr. Koenig's lack of complete responses to our questions and requests for information, and his unsupportable interpretation of some of the codes. Mr. Koenig has many discretionary powers, so our intent was to notify the council of our opinions and the facts on which our opinions are based.

We would like you to respond to the following questions:

Can we ask questions of the city employees who attend the council meetings and the council members and have their responses after we have finished speaking and assuming that their response would not be lengthy or complex? If so, would the council prefer that we send our questions to them or the employees at least a week before we

present our questions? If an immediate response is not possible could we receive answers by email or must these answers be provided at a future council meeting?

Some questions about policies can be answered by the staff. However, we believe that some problems and recommended solutions should be presented to the council for their review. Is it necessary that we speak at a council meeting in order to present this information to the council?

Processing our complaint.

The processing of our complaints could easily have been completed in the 2 to 3 week time period suggested by Mr. Koenig on 9-7-2016. The codes pertaining to the violations present at the subject site are very clear. Processing this complaint would have required very few and very simple steps. Verifying that no permit was issued would take very little time or effort and would reveal that a construction plan was not submitted and that a structural review was not completed. If a plan was not submitted to the city the plan could not have undergone a structural review. The first code enforcement inspection of the property revealed that this was a flagpole and that the set back requirement was violated. A simple code enforcement letter stating that the flagpole must be removed could have easily been mailed. This process could not have involved much more than a day or two of employee time at most.

We should never have met Ms. Hirashima or at least ten other very helpful and competent employees. At least 20 employees who should not have been involved in this process were referenced in various emails, contacted by phone or spoken with. Several excuses were offered for the delay and problems involved in processing this complaint. These excuses are not justifiable. The delays and extra work were due to the problems listed in our 11-28-2016 statement, in our emails to Ms. Hirashima and other correspondence. The codes were clear and easily interpreted. A flagpole is an accessory structure. The fact that this accessory structure is a flagpole would not create any problem with enforcement action. The fact that some other unrelated codes that are unclear might need clarification should have had no effect on the processing of our complaints.

The numerous emails and consultation among all of the employees which were created by some unknown confusion within this department resulted in the waste of many hours of employees' time.

Based on a review of the numerous emails, phone calls and office visits produced by this process, we would conclude that at least \$2,000 to \$4,000 (probably more) of time was wasted and this estimate does not include the allocated cost of equipment and materials. Do you think that a reasonable cost estimate of the wasted time and resources should be presented to the council? Should someone explain why this time was wasted? Should the public be notified of this type of cost overrun, or should we be kept ignorant of these types of problems? If the city believes that there was no waste of resources and time, please supply us with justification of your position. These wasted employee hours were not the result of our complaint which could have been quickly and easily processed.

Item 3 in our 11-28-2016 statement.

We were not concerned about the amount of the charge or that it was not paid. Typically, Ms. Hirashima understands and replies to a direct question, but not this time. Our questions were: Quote “This is simply a question about who can change the MMC’s? Can city employees change these code requirements?” Neither of these questions was answered. The response indicates that the department waived the fee. Which employee waived this fee and did this employee have the authorization to do so? We do not want their name and we do not want them punished if they acted inappropriately. Can city employees change the municipal codes that are approved by the city council and which we would assume the council would require employees to comply with? Is there a separate code that allows city employees to change any of the fees that are required by many codes in the MMC? For example can employees waive, reduce or increase any of the building permit fees? If the employee that waived this fee has the authorization to do so then they acted appropriately. If employees are granted the option of reducing fees specified in the MMC, is there a list of these employees? Is there a code that allows city employees to change these fees? Why not include a comment in the permit file stating that the fee was waived, why it was waived, who waived it and the code that allows such a change. Then our question would never have been necessary.

We would like a response to each and every question that we present in this statement. If the city believes responses are not warranted, please supply us with the city’s reasons for refusing to answer our questions.

We received Ms. Hirashima’s response and time line of events and Ms. Hirashima is aware of some of the facts about the processing of our complaint. We believe that her response is the council’s response. We will be emailing an abbreviated response to her statements and a similar, more complete, time line of these events to you and every council member. The majority of the comments to the council are from this statement to you. We would like you to answer the two questions in this other email that are addressed to you on page one. The other new information to you will be the time line that is in that email.

We realize that this is a lengthy message that will require substantial effort on your part in order to complete a response. We understand that some of the questions might be answered by your staff, but we hope that you will read this message and approve their responses. We hope that a review of these facts will result in constructive changes, make you more aware of some of these existing problems as well as the many efficient, competent and helpful city employees.

Sincerely yours,

Evan and Patricia Kaiser



**EXECUTIVE DEPARTMENT**  
1049 State Avenue ♦ Marysville, WA 98270  
(360) 363-8100 ♦ (360) 651-5099 FAX

February 3, 2017

Evan and Patricia Kaiser  
2910 73<sup>rd</sup> Avenue NE  
Marysville, WA 98270

Subject: 11 page email to Mayor Nehring sent 1/11/17

Dear Mr. and Mrs. Kaiser:

I am responding to the email sent to Mayor Nehring 1/11/17. The email was quite long and presented many questions and comments. As staff to the Mayor, he has asked me to respond to some of your concerns, many of which relate to code language and questions under the purview of the Community Development Department. I have consulted with staff, and further reviewed sections of the code that you highlighted in your email. Again, as in previous correspondence with you, I am not answering every one of your questions, instead focusing on a few of the repeated themes from this email and prior correspondence. Marysville citizens expect response on a wide expanse of issues and our organization has collectively (between multiple CD staffers, Clerk's staff, Mayor's staff, Council) spent well over a hundred hours responding to your flag concerns and while some of your concerns have been identified for action & response, on other items we disagree and do not propose any response or action.

Many of your questions relate to interpretation of the Unified Development Code (Title 22) and potential contradictions within referenced codes. You raised concerns about 22C.160.070 Prohibitions (Signs) contradicting 22A.020.200 and 22C.160.080. Title 22C.160 relates to Signs. The stated purpose of Title 22C.160, is as follows **"22C.160.010 Purpose. The purpose of this chapter is to provide for the reasonable display of signs necessary for public service or the conduct of business. . ."** After reviewing your questions and familiarizing myself with the code language, it is my opinion that flags on residential properties, not displayed for either public service or the conduct of business are not covered, or intended to be covered, by Title 22C.160 Sign Code. I disagree with the contention that flags on residential properties are subject to the Sign Code at all. Staff at CD have taken a more conservative interpretation than I would, by choosing to read residential flags as an exemption to the Sign Code, subject to permit requirements. In my view, after reading the overarching purpose of the sign code, I would not have interpreted residential flags as being covered by the sign code at all. They are not flown for the conduct of business and therefore Title 22C.160 should not apply.

So, in some sense, I agree with you. You have raised that sections 22C.160.070, 22A.020.200, and 22C.160.080 are contradictory. They are if you believe residential flags are covered by Title 22C.160.

They are not contradictory, if you are of my position, which is that Title 22C.160 does not cover flags flown on residential properties. Title 22A.020.200 then is consistent with that reading and poses no contradiction.

Consistent with their interpretation, staff worked with the neighboring properties to bring the signs in violation of this code interpretation into compliance. This would have been required whether or not the flags are believed to be subject to Title 22C.160, as the structure did not meet required setbacks for an accessory structure. Consistent with their interpretation that residential flags are subject to the Sign Code, they are currently working with the Planning Commission to revise the Sign Code and related sections. I have attached the Planning staff report that relates to these sections.

You have asked many questions related to permit process and review. After reviewing the various sections of the Sign Code more thoroughly, I now disagree entirely that any permit should have been required at all for the residential flag. As a result, I do not have a response to whether proper process was followed relating to the building permit, because I do not think CD staff should have required a permit for this particular use. I do still agree that the flag is an accessory structure, subject to setbacks, and height restrictions. CD staff properly applied setbacks to the relocated flagpole. CD staff also properly applied height review as indicated by Mr. Koenig's response to you on 1/17/17.

You have asked for a response to the question -Can city employees change code requirements or MMC's? The answer to that is no. Code that is adopted by ordinance can only be changed by the City Council. However, as identified in my responses, staff can interpret code, and because codes are complex and there are multiple layers of code sections which can apply to a given situation, this requires that the staff and employees read and interpret code and if it is unclear, give weight and consideration to the stated purpose of the ordinance.

Sincerely,



Gloria Hirashima  
Chief Administrative Officer



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

## MEMORANDUM

**DATE:** February 8, 2017

**TO:** Planning Commission

**FROM:** Angela Gemmer, Senior Planner

**RE:** 2016-17 Code Amendments – Flags and Flagpoles

**CC:** Dave Koenig, Community Development Director  
 Chris Holland, Planning Manager  
 Cheryl Dungan, Senior Planner  
 Amy Hess, Associate Planner

The following proposed amendments are to clarify what constitutes a flagpole as well as the applicable height and setback requirements. Also included in the amendments is a revision to the flag reference in the definition of "sign", and the elimination of flags from the exemptions section of the sign code.

### **DEFINITIONS**

#### **22A.020.070 "F" definitions.**

"Flagpole" a tall pole from which a flag hangs.

#### **22A.020.200 "S" definitions.**

"Sign" means any device, fixture, or placard that is visible from a public right-of-way or surrounding properties and uses graphics, symbols, logos, or written copy conveying a message or image and used to inform or attract the attention of the public, such as advertising or identifying an establishment, product, goods, service or activity. A sign may have multiple faces and advertise multiple on-premises establishments, businesses, products, services, or activities. This definition does not include any flag of any country, state or local jurisdiction. Unless the context clearly provides to the contrary, a "sign" as used in this chapter also includes the "sign structure."

### **RESIDENTIAL ZONES – HEIGHT**

#### **22C.010.220 Height – Exceptions to limits.**

The following structures may be erected above the height limits of MMC [22C.010.080](#):

- (1) Roof structures housing or screening elevators, stairways, tanks, ventilating fans or similar equipment required for building operation and maintenance; and
- (2) Fire or parapet walls, skylights, chimneys, smokestacks, church steeples, and utility line towers and poles.

(3) Flagpoles may rise ten feet above the height limit, or five feet above the highest point of the roof, whichever is greater.

## **RESIDENTIAL ZONES – SETBACKS**

### **22C.010.210 Setbacks – Projections allowed.**

Projections may extend into required setbacks as follows:

- (1) Fireplace structures including eaves and factory-built garden or bay windows may project into any setback, provided such projections are:
  - (a) Limited to two per facade;
  - (b) Not wider than 10 feet; and
  - (c) Not more than 24 inches into a side setback or 30 inches into a front or rear setback;
- (2) Uncovered porches and decks, including stairs, which exceed 30 inches above the finished grade may project:
  - (a) Eighteen inches into side setbacks; and
  - (b) Five feet into the front or rear setback;
- (3) Uncovered porches and decks not exceeding 30 inches above the finished grade, and uncovered accessory structures such as radio antennas and dishes, mechanical equipment, play structures, and tennis courts, may project to the property line, provided that, with the exception of uncovered porches and decks, the front property line setback for the zone shall be observed;
- (4) Eaves may not project more than:
  - (a) Twenty-four inches into a side setback;
  - (b) Thirty-four inches into a front or rear setback; or
  - (c) Eighteen inches across a lot line in a zero lot line development.
- (5) Accessory structures such as flagpoles and lampposts shall be setback a minimum of five feet from all property lines, provided
  - (a) They are not located within a utility or access easement, and;
  - (b) Flags are not displayed in a manner that would cause the flag to encroach onto a neighboring property.

## **COMMERCIAL ZONES**

### **22C.020.190 Height – Exceptions to limits.**

The following structures may be erected above the height limits of MMC [22C.020.080](#)(2):

- (1) Roof structures housing or screening elevators, stairways, tanks, ventilating fans or similar equipment required for building operation and maintenance; and
- (2) Fire or parapet walls, skylights, chimneys, smokestacks, church steeples, flagpoles and utility line towers and poles.

## **SIGN CODE**

### **22C.160.080 Exemptions.**

The following signs are exempted from obtaining a sign permit, but must comply with all other requirements of this chapter and with the specific requirements set forth below for each type of sign:

- (1) A change in the face of the sign or advertising copy of an existing, legally permitted, sign.

- (2) Temporary and special event signs meeting the requirements of MMC [22C.160.230](#).
- (3) On-premises and portable commercial or real estate signs meeting the requirements of MMC [22C.160.230](#)(5) and (6).
- (4) Political signs meeting the requirements of MMC [22C.160.230](#)(7).
- (5) Nonelectric signs not exceeding four square feet per face, which are limited in content to the name of occupant and address of the premises in a residential zone.
- (6) Instructional signs, not exceeding six square feet per sign; provided, that foundation, anchorage, attachments and other structural support of the sign and electrical connection require construction permits.
- (7) Menu signs. Foundation, anchorage, attachments and other structural support of the sign and electrical connection require construction permits.
- (8) Seasonal decorations. Reasonable seasonal decorations within an appropriate holiday season or during a festival are exempt from this section as long as such displays are removed promptly at the end of the holiday season or festival.
- (9) Sculptures, fountains, benches, lighting, mosaics, murals, landscaping and other street furniture and design features, which do not incorporate advertising or identification.
- (10) Signs not visible from public way. Exterior and interior signs or displays not intended to be visible from streets or public ways, signs in the interior of a building more than three feet from the closest window and not facing a window, window displays and point of purchase advertising displays such as vending machines.
- ~~(11) The flag, emblem or insignia of a nation or other governmental unit or nonprofit organization, subject to the guidelines concerning their use set forth by the government or organization which they represent. Flag poles require a construction permit for structural review.~~
- ~~(11)2~~ Traffic or other municipal signs, signs required by law or emergency services, railroad crossing signs, legal notices, and any temporary signs specifically authorized by the city council or authorized under policies and procedures adopted by the city council.
- ~~(12)3~~ Signs of public utility companies indicating danger or which serve as an aid to public safety or which show the location of underground facilities or of public telephones.
- ~~(13)4~~ Memorial signs or tablets, names of buildings, stained glass windows and dates of erection when cut into the surface of the facade of the building or when projecting not more than two inches.
- ~~(14)5~~ Incidental signs, including, but not limited to, "no trespassing," "no dumping," "no parking," "private," signs identifying essential public needs (i.e., restrooms, entrance, exit, telephone, etc.) and other information warning signs, which shall not exceed three square feet in surface area.
- ~~(15)6~~ Flush-mounted wall signs which are used to identify the name and address of the occupant for each dwelling, provided the sign does not exceed two square feet in sign area.
- ~~(16)7~~ Gateway entrance signs. Gateway entrance signs that comply with the city of Marysville gateway master plan. Foundation, anchorage, attachments and other structure support of the sign and electrical connection require construction permits.

Staff respectfully requests that Planning Commission make a recommendation of approval of the flags and flagpoles amendments to City Council for adoption by Ordinance.



# *Index #12*

**CITY OF MARYSVILLE AGENDA BILL**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: 2/13/17**

<b>AGENDA ITEM:</b>	
<b>A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON, RELINQUISHING ALL INTEREST IN THE REAL PROPERTY LOCATED AT 3020 RUCKER AVENUE IN EVERETT, WASHINGTON, TO THE SNOHOMISH HEALTH DISTRICT.</b>	
<b>PREPARED BY:</b>	<b>DIRECTOR APPROVAL:</b>
Resolution prepared by Jon Walker, City Attorney Agenda Bill prepared by Gloria Hirashima, CAO	
<b>DEPARTMENT:</b>	
Executive, Legal Departments	
<b>ATTACHMENTS:</b>	
<ol style="list-style-type: none"> <li>1. Resolution relinquishing interest in 3020 Rucker Avenue to Snohomish Health District</li> <li>2. Presentation by Snohomish Health District regarding 3020 Rucker Avenue building.</li> </ol>	
<b>BUDGET CODE:</b>	<b>AMOUNT:</b>
N/A	N/A
<b>SUMMARY:</b>	
<p>The Snohomish Health District is working on a sustainable funding plan for its operations. Part of their plan involves evaluation of current real estate and office needs and potential sale of the current building at 3020 Rucker Avenue. In order to accomplish this, the Health District has identified a need to resolve ownership of their current facility and identify current interests in their facility. The city of Marysville was a member city during the initial purchase of the building in 1990. The Health District has asked all member cities to evaluate their current interest in the building and asked us to consider an interlocal agreement with the Health District to relinquish interest in the facility to enable them to sell the building. Marysville's City Attorney has reviewed the proffered ILA and recommended that a resolution be substituted for the ILA. It would accomplish the same outcome.</p> <p>To date, Arlington, Lake Stevens, Snohomish, Stanwood and Snohomish County have approved the ILA relinquishing their interest in the building. The topic is scheduled for Council discussion and action in Bothell, Edmonds, Gold Bar, Granite Falls, Lynnwood, Mill Creek and Monroe.</p> <p>A presentation regarding the current building situation is included as Attachment 2.</p>	

**RECOMMENDED ACTION:**

Staff recommends that Council approve the Resolution to relinquish interest in the building.

CITY OF MARYSVILLE  
Marysville, Washington

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARYSVILLE,  
WASHINGTON, RELINQUISHING ALL INTEREST IN THE REAL  
PROPERTY LOCATED AT 3020 RUCKER AVENUE IN EVERETT,  
WASHINGTON, TO THE SNOHOMISH HEALTH DISTRICT.**

WHEREAS, the Snohomish Health District was originally established by resolution of Snohomish County Board of County Commissioners on November 24, 1958, with an effective date of January 1, 1959; and

WHEREAS, the Snohomish Health District is an independent municipal corporation, incorporated under the provisions of Chapter 70.46 RCW with Snohomish County, and cities and towns within Snohomish County as members of the Snohomish Health District; and

WHEREAS, the City of Marysville is a member of the Snohomish Health District with a Councilmember sitting as a board member of the Health District and receives public health services from the District; and

WHEREAS, the Snohomish Health District, under provisions of RCW 70.46.100, has the power and authority to purchase, own, lease, and maintain real property and property rights necessary for the conduct of its affairs; and

WHEREAS, the County, along with the cities and towns, entered into an interlocal agreement executed on September 27, 1990 (the "1990 ILA"), to provide for the acquisition of a facility for the Snohomish Health District known as the "Rucker Building" and further described in Exhibit "A"; and

WHEREAS, the 1990 ILA provided for the financing of the purchase of the facility at 3020 Rucker Avenue in Everett, based on an equitable formula basis totaling \$5,150,000; and

WHEREAS, in 1995 the Snohomish Health District paid off the loan to acquire the building in full, thereby satisfying the terms of the 1990 ILA; and

WHEREAS, the deed and title to the Rucker Building are vested in the Snohomish Health District, and the Snohomish Health District has assumed all financial responsibility for utilities, ongoing operations and maintenance, and capital improvements; and

WHEREAS, the Snohomish Health District is interested in moving into a smaller building, either purchased or leased, with remaining dollars to be invested into a new capital fund; and

WHEREAS, the Snohomish Health District Board of Health unanimously approved Resolution 17-03 on January 10, 2017, signifying its intent to surplus and sell the Rucker Building, and encouraged the cities, towns, and Snohomish County to relinquish any potential ownership and financial interest; and

WHEREAS, public health is a shared responsibility, and an effective public health response to the threats to public health in Snohomish County which requires regional cooperation, participation and support from cities, towns and the County; and

WHEREAS, the health and welfare of the citizens of Marysville will benefit by the City relinquishing any potential interest it has in the real property, as it will contribute to the Health District’s financial stability and thereby assist the District in delivering health services within the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARYSVILLE, that all interest and ownership of the City of Marysville in the real property located at 3020 Rucker Avenue in Everett, Washington, is relinquished to and deeded to the Snohomish Health District.

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARYSVILLE, that the proper officers of the City shall execute a quit claim deed conveying all interest in the real property to the Snohomish Health District in a form substantially conforming to Exhibit “A”.

ADOPTED by the City Council at an open public meeting this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

CITY OF MARYSVILLE

By \_\_\_\_\_  
JON NEHRING, MAYOR

Attest:

By \_\_\_\_\_  
APRIL O’BRIEN, DEPUTY CITY CLERK

Approved as to form:

By \_\_\_\_\_  
JON WALKER, CITY ATTORNEY

## EXHIBIT A

### After Recording Return to:

Snohomish Health District  
3020 Rucker Avenue, Suite 306  
Everett, WA 98201

## QUIT CLAIM DEED

Grantor: CITY OF MARYSVILLE, WASHINGTON

Grantee: SNOHOMISH HEALTH DISTRICT

Legal: Lots 8-10 & 22-29, Block 720, Plat of Everett, Div H, V. 4, p. 50 and  
Lots 5-7, Block 719, Plat of Everett, V. 3, P. 32, Snohomish Cty, WA, Add'l on p. 1-2

Tax ID#: 004375-720-008-00, 004375-720-009-00, 004375-720-022-00  
004375-720-028-00 and 004391-719-005-00

THE GRANTOR, CITY OF MARYSVILLE, a municipal corporation of the State of Washington, for and in consideration of clearing title of any interest Grantor may have, conveys and quit claims to SNOHOMISH HEALTH DISTRICT, a municipal corporation of the State of Washington, the following-described real estate, situated in the County of Snohomish, State of Washington, including any interest therein which Grantor may hereafter acquire:

PARCEL A:

Lots 8, 9, 10, 22, 23, 24, 25, 26, 27, 28 and 29, Block 720, Plat of Everett, Division "H," as per plat recorded in Volume 4 of Plats, page 50, records of the Auditor of the County of Snohomish, State of Washington.

Situate in the City of Everett, County of Snohomish, State of Washington.

PARCEL B:

Lots 5, 6 and 7, Block 719, Plat of Everett, as per plat recorded in Volume 3 of Plats, page 32, records of the Auditor of the County of Snohomish, State of Washington.

Situate in the City of Everett, County of Snohomish, State of Washington.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

CITY OF MARYSVILLE

By \_\_\_\_\_

JON NEHRING, MAYOR

STATE OF WASHINGTON )

) ss.

COUNTY OF SNOHOMISH )

I certify that I know or have satisfactory evidence that Jon Nehring is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that Jon Nehring was authorized to execute the instrument and acknowledged it as the MAYOR of the CITY OF MARYSVILLE to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
\_\_\_\_\_

(Legibly print name of notary)

NOTARY PUBLIC in and for the State of

Washington, residing at \_\_\_\_\_

My commission expires \_\_\_\_\_



# Background on the Rucker Building

Briefing to Cities on Intent to Sell



## Today's Discussion

- ✓ Introductions
- ✓ Background on Original Purchase
- ✓ Current State of Rucker Building
- ✓ Potential Claims or Financial Interest
- ✓ Questions/Discussion



## Background on the Original **PURCHASE**

### How it Came Together

- ✓ **1988** – District began looking to move 125 employees into one building, as they were currently are spread among three buildings in Everett.
- ✓ **February 26, 1990** – MOU is signed to convey agreement by negotiating team on population method of cost sharing
- ✓ **May 16, 1990** – Purchase & Sale Agreement executed for \$5,150,000
- ✓ **September 27, 1990** – ILA executed with financing agreement for purchase of Rucker Bldg
- ✓ **1995** – Health District completes final payment of loan, terms of 1990 ILA are satisfied

## Where Things Get Murky

- ✓ The Board of Health adds Article VIII to the Charter in December 1997.
- ✓ Based on Article VIII and conversations with past leaders, it appears the intent was to develop another ILA for real property interests.
- ✓ No records of finalized "Purchase Agreements" were uncovered.
- ✓ It's unclear whether cities, towns or the County have carried the Rucker Building on their books as an asset.
- ✓ The Health District holds the deed and clear title.

## Current State of the Rucker BUILDING

## Recent Repairs and Needs

- ✓ **January 2015** – Flooding on first floor caused extensive water damage
- ✓ **March 2015** – Began work with McKinstry
- ✓ **September 2015** – Delivered recommendations to the Board on needed capital improvements (\$4M)
- ✓ **December 2015** – Full capital improvements included in 2016 budget with provisions
- ✓ **Early-2016** – Put project on hold while looking at alternatives
- ✓ **September 2016** – Began discussions with the Board during budget process on potentially selling the building

## Current Issues at Hand

- ✓ Inefficient use of Rucker Bldg space
- ✓ Vacant, leasable space = lost revenue
- ✓ Not staffed to be property managers
- ✓ Underutilized space in Lynnwood (approx. 3,500 sf)

## Capital Expenditures in Budget

HVAC Replacement	1,048,181
Carpeting (Tripping Hazards)	105,000
Parking Lot Security	100,000
Customer Service Counter Improvements	<u>150,000</u>
<b>Subtotal, Rucker Building</b>	<b>1,403,181</b>

## Options Considered

### Maintain Ownership

- ✓ Complete minimum of \$1.5M in required capital improvements
- ✓ Contract out for property management

### Sell Building

- ✓ Put Rucker Building on the market
  - ✓ Buy smaller building(s)
  - ✓ Lease smaller building(s)
  - ✓ Lease back some space in Rucker Building as tenant

# Potential Claims or Financial INTEREST

## Recommended Path Forward

- ✓ Board of Health's resolution
- ✓ Draft ILA for agencies to relinquish any potential claim or financial interest
- ✓ Avoid prolonged staff and legal costs
- ✓ Upon sale of the building, any proceeds not used for purchase and moving expenses would be placed in a new capital fund for the Health District

## Next Steps

- ✓ Complete regional meetings with city/town stakeholders
- ✓ Building goes on the market in early-February
- ✓ Work to get ILAs executed with all agencies
- ✓ Goal is to be out of Rucker Building in 6-12 months

# Discussion/ Questions

# *Index #13*

CITY OF MARYSVILLE  
Marysville, Washington

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARYSVILLE,  
WASHINGTON, AMENDING CHAPTER 11.37 OF THE MUNICIPAL CODE  
REGARDING QUALIFICATIONS FOR TOW TRUCK OPERATORS.**

WHEREAS, chapter 11.37 of the municipal code is to provide for impartial referral of city business to tow truck operators who are best qualified to serve the interests of persons within the city limits; and

WHEREAS, Washington State Patrol also regulates tow truck operators; and

WHEREAS, the Washington State Patrol suspends tow truck operators that violate its regulations; and

WHEREAS, public health, safety, and welfare would benefit if the City concurrently suspended tow truck operators who had been suspended by the Washington State Patrol.

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

SECTION 1. Amendment of Municipal Code. The municipal code is amended as set forth in Exhibit "A" by amending section 11.37.050 and adding a new section 11.37.055.

SECTION 2. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

SECTION 3. Effective Date. This ordinance shall become effective five days after the date of its publication by summary.

PASSED by the City Council and APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

CITY OF MARYSVILLE



By \_\_\_\_\_

JON NEHRING, MAYOR

Attest:

By \_\_\_\_\_

APRIL O'BRIEN, DEPUTY CITY CLERK

Approved as to form:

By \_\_\_\_\_

JON WALKER, CITY ATTORNEY

Date of publication: \_\_\_\_\_

Effective Date (5 days after publication): \_\_\_\_\_

# EXHIBIT A

## **11.37.050 Practices and procedures.**

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In order to continue its qualified status on the police department's list, a tow truck operator shall comply with the following practices and procedures with respect to all business obtained through police department calls or referrals:

- (1) The tow truck operator must consistently abide by the fee schedule filed with the Department of Licensing and there shall be no supplemental fees or additional charges which do not appear on the schedule.
- (2) The response time between the initial telephone call from the police department to a tow truck operator, and the arrival of the tow truck at the location of a vehicle within the city, shall not exceed 30 minutes. If for any reason a tow truck operator is unable, or fails, to respond within such time limits, it may forfeit its turn on the rotation list and the police department may contact another tow truck operator. Consistent refusal or failure to respond to calls from the police department may result in suspension or removal from the list.
- (3) A tow truck operator shall advise the police department when it receives a private call for a tow and the circumstances indicate that the tow is for a vehicle which has been involved in an accident or other such incident on a public roadway, or when an accident or incident on private property has resulted in bodily injury or death.
- (4) A tow truck operator will notify the police department before moving any vehicle involved in an accident or incident on a public highway, or where it appears that the driver of the vehicle to be moved is under the influence of intoxicants or drugs or is otherwise incapacitated.
- (5) When the police department is in charge of an accident scene or other such incident, a tow truck operator shall not respond to such scene unless its services have been specifically requested by the police department or by the driver/owner or his agent.
- (6) The tow truck operator shall be available 24 hours a day for the purpose of receiving calls and releasing vehicles.
- (7) The tow truck operator shall notify the police department of the release of impounded vehicles within 24 hours after the release of such vehicles. Notification to the police department will be made in such manner as is prescribed by the chief of police.
- (8) The interiors of the tow trucks will be reasonably clean.
- (9) Tow truck drivers will clean accident/incident scenes of all glass and debris.

(10) All equipment used in conjunction with a tow truck must be in compliance with the manufacturer's basic boom rating.

(11) The tow truck operator shall be in good standing with the Washington State Patrol.

### **11.37.055 Suspension by Washington State Patrol.**

(1) A tow truck operator suspended by the Washington State Patrol is not qualified to operate in the city during the period of suspension. There is no right to appeal a suspension by the Washington State Patrol to the police chief under this chapter.

(2) A tow truck operator suspended by the Washington State Patrol must notify the City of the suspension by delivering a copy of the suspension to the police chief or his or her designee within 24 hours of the suspension taking effect. A tow truck operator that fails to comply with this subsection may be suspended by the police chief for up to ten days. Such suspension will be in addition to the period of non-qualification that results from the Washington State Patrol's suspension. The police chief's determination to suspend a tow truck operator under this subsection may be appealed as provided in this chapter.

# *Index #14*

**CITY OF MARYSVILLE**  
**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: March 6, 2017**

<b>AGENDA ITEM:</b> Reappointment to the Marysville Parks, Culture and Recreation Board	<b>AGENDA SECTION:</b> Mayor's Business	
<b>PREPARED BY:</b> April O'Brien, Deputy City Clerk	<b>AGENDA NUMBER:</b>	
<b>ATTACHMENTS:</b> Appointment Form	<b>APPROVED BY:</b>	
	<b>MAYOR</b>	<b>CAO</b>
<b>BUDGET CODE:</b>	<b>AMOUNT:</b>	

Summary:

Mayor Nehring is requesting the reappointment of Katherine Smith to the Marysville Parks, Culture and Recreation Board.

**RECOMMENDED ACTION:**

Mayor Nehring recommends the City Council confirm the reappointment of Katherine Smith to the Marysville Parks, Culture and Recreation Board.

Office of the Mayor  
Jon Nehring  
1049 State Avenue  
Marysville, WA 98270  
Phone: 360-363-8000  
Fax: 360-651-5033  
marysvillewa.gov

### APPOINTMENT

I, Jon Nehring, duly elected and acting Mayor of the City of Marysville, do hereby reappoint KATHERINE SMITH as a member of the MARYSVILLE PARKS, CULTURE AND RECREATION BOARD of the City of Marysville, pursuant to the provisions of the Marysville Municipal Code 2.20.030 dated this 6 day of March 2017.

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M A Y O R

I do swear and affirm I will perform the duties assigned to me as a member of the MARYSVILLE PARKS, CULTURE AND RECREATION BOARD of the City of Marysville in the manner required by law.

Dated this 6 day of March, 2017

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KATHERINE SMITH

This term of appointment expires the 28 day of February, 2020.