

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: January 12, 2015

AGENDA ITEM: Ordinance adopting amendments to the Marysville Municipal Code Title 22D <i>City-Wide Standards</i> increasing the time during which park, school, and traffic impact fees may be expended from six years to 10 years.	AGENDA SECTION: New Business	
PREPARED BY: Angela Gemmer, Associate Planner	APPROVED BY:	
ATTACHMENTS: 1. PC Recommendation, including: <ul style="list-style-type: none"> • Exhibit A – PC Recommended Ordinance • Exhibit B – PC Public Hearing Minutes, November 25 • Exhibit C – PC Workshop Minutes, September 23 2. Adopting Ordinance	MAYOR	CAO

DESCRIPTION:

The Planning Commission (PC) held a public workshop on September 23, 2014, and a duly advertised public hearing on November 25, 2014 to review proposed amendments to Marysville Municipal Code Chapters 22D.020 – *Parks, Recreation, Open Space and Trails Impacts Fees and Mitigation*, 22D.030 – *Traffic Impact Fees and Mitigation*, and 22D.040 – *School Impact Fees and Mitigation*. Presently, State law has been amended to increase the time during which park, school, and traffic impact fees may be expended from six years to 10 years. The proposed amendments are to update the park, school, and traffic impact fee codes to be consistent with this requirement.

The PC received testimony from property owners, staff and other interested parties at the public hearing, following public notice. The PC made a motion to recommend the proposed amendments to Marysville City Council for adoption by ordinance.

RECOMMENDED ACTION:

Affirm the Planning Commission’s Recommendation and adopt amendments to MMC Title 22D *City-Wide Standards* increasing the time during which park, school, and traffic impact fees may be expended from six years to 10 years.

COUNCIL ACTION:



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

PC Recommendation - Term for Impact Fee Expenditures

The Planning Commission of the City of Marysville, having held a public hearing on November 12, 2014, which was continued to November 25, 2014, in review of amendments related to the Term for Impact Fee Expenditures by amending Marysville Municipal Code (MMC) Sections 22D.020.090(5); 22D.020.100; 22D.040.050; 22D.040.060; and 22D.030.070, 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 a public work session to review amendments related to the Term for Impact Fee Expenditure on September 23, 2014.
2. The proposed amendment to the City's development regulations is exempt from State Environmental Policy Act review under WAC 197-11-800(19).
3. Community Development Staff submitted the DRAFT amendments related to Term for Impact Fee Expenditures to the State of Washington Department of Commerce for expedited review pursuant to RCW 36.70A.106(3)(b). No comments were received from State Agencies.
4. The Planning Commission held a duly-advertised public hearing on November 12, 2014, which was continued to November 25, 2014.
5. No public comments were received on the DRAFT amendments related to Term for Impact Fee Expenditures.

CONCLUSION:

At the public hearing, held on November 25, 2014, the Planning Commission recommended adoption of the development code amendments related to the Term for Impact Fee Expenditures, as reflected in the Ordinance attached hereto as **Exhibit A**, as reflected in the PC minutes attached hereto as **Exhibit(s) B & C**.

RECOMMENDATION:

Forwarded to City Council as a Recommendation of Approval of the development code amendments related to Term for Impact Fee Expenditures by the Marysville Planning Commission this 25th day of November, 2014.

By: 
Steve Lelzer, Planning Commission Chair

EXHIBIT A

**CITY OF MARYSVILLE
Marysville, Washington
ORDINANCE NO. _____**

AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, AMENDING MMC 22D.020.090(5); MMC 22D.020.100 REGARDING PARKS, RECREATION, OPEN SPACE AND TRAIL IMPACT FEES AND MITIGATION; MMC 22D.040.050; MMC 22D.040.60 REGARDING SCHOOL IMPACT FEES AND MITIGATION; MMC 22D.030.070 REGARDING TRAFFIC IMPACT FEES AND MITIGATION; MMC 22A.010.160 REGARDING GENERAL ADMINISTRATION, RELATED TO TRACKING AMENDMENTS TO THE CITY'S UNIFIED DEVELOPMENT CODE; PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE.

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, the development code amendments herein are consistent with the following required findings of MMC 22G.010.500:

- (1) The amendment is consistent with the purposes of the comprehensive plan;
- (2) The amendment is consistent with the purpose of this title;
- (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.

WHEREAS, the Planning Commission discussed the above-referenced amendments during a public meeting held on September 23, 2014; and

EXHIBIT A

WHEREAS, after providing notice to the public as required by law, on November 12, 2014, the Marysville Planning Commission held a Public Hearing on proposed amendments to the City's development regulations which was continued to November 25, 2014; and

WHEREAS, on November 25, 2014, at the continued public hearing, the Marysville Planning Commission made a Recommendation to the City Council recommending the adoption of the proposed amendments to the City's development regulations; and

WHEREAS, at a public meeting on January 12, 2015, the Marysville City Council reviewed and considered the Marysville Planning Commission's Recommendation and proposed amendments to the City's development regulations; and

WHEREAS, the City of Marysville has submitted the proposed development regulation revisions to the Washington State Department of Commerce on September 24, 2014, seeking expedited review under RCW 36.70A.160(3)(b) in compliance with the procedural requirements of 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);

NOW, THEREFORE, the City Council of the City of Marysville, Washington do ordain as follows:

Section 1. MMC 22D.020.090(5), is hereby amended to read as follows. (All other provisions of MMC 22D.020.090 remain in effect and unchanged):

(5) Impact fees shall be expended or encumbered for a permissible use within ~~six~~ ten years of the date they are received by the city of Marysville finance department unless the city council makes written findings that there exists an extraordinary and compelling reason for fees to be held longer than ~~six~~ ten years.

Section 2. MMC 22D.020.100(2)(a), is hereby amended to read as follows. (All other provisions of MMC 22D.020.100 remain in effect and unchanged):

(2) Refunds of Unencumbered Impact Fees.

(a) The current owner of property on which impact fees have been paid may apply for and receive a refund of these fees if the impact fees have not been expended or encumbered within the time limits in MMC 22D.020.090(5) unless the city council has extended the ~~six~~ ten year period by finding that there is an extraordinary and compelling reason to hold such fees for a longer period. Refunds of impact fees under this subsection (2) shall include any interest earned on the impact fees by the city. In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first-in, first-out basis.

Section 3. MMC 22D.040.050(4)(b), is hereby amended to read as follows. (All other provisions of MMC 22D.040.050 remain in effect and unchanged):

(4) Impact Fee Limitations.

(b) School impact fees must be expended or encumbered for a permissible use within ~~six~~ ten years of receipt by the district.

Section 4. MMC 22D.040.060(4)(a), is hereby amended to read as follows. (All other provisions of MMC 22D.040.060 remain in effect and unchanged):

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(4) Refunds.

(a) School impact fees not spent or encumbered within ~~six~~ ten years after they were collected shall, upon receipt of a proper and accurate claim, be refunded, together with interest, to the then current owner of the property. In determining whether school impact fees have been encumbered, impact fees shall be considered encumbered on a first-in, first-out basis. At least annually, the city, based on the annual report received from each district pursuant to subsection (2)(d) of this section, shall give notice to the last known address of potential claimants of any funds, if any, that it has collected that have not been spent or encumbered. The notice will state that any persons entitled to such refunds may make claims.

Section 5. MMC 22D.030.070(9)(a)(iv), is hereby amended to read as follows. (All other provisions of MMC 22D.030.070 remain in effect and unchanged):

(9) Administration of Traffic Impact Fees.

(a) Any traffic impact fees made pursuant to this title shall be subject to the following provisions:

(iv) The fee payer may receive a refund of such fees if the city fails to expend or encumber the impact fees within ~~six~~ ten years of when the fees were paid, or other such period of time established pursuant to RCW 82.02.070(3), on transportation facilities intended to benefit the development for which the traffic impact fees were paid, unless the city council finds that there exists an extraordinary and compelling reason for fees to be held longer than ~~six~~ ten years. These findings shall be set forth in writing and approved by the city council. In determining whether traffic impact fees have been encumbered, impact fees shall be considered encumbered on a first-in/first-out basis. The city shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of claimants.

Section 6. MMC 22A.010.160, Amendments, 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>
_____	Term for Expending Impact Fees	_____, 2015"

Section 7. Severability. If any section, subsection, sentence, clause, phrase or word 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 8. Effective Date. This ordinance shall become effective five days after the date of its publication by summary.

EXHIBIT A

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2015.

CITY OF MARYSVILLE

By: _____
JON NEHRING, MAYOR

Attest:

By: _____
APRIL O'BRIEN, DEPUTY CITY CLERK

Approved as to form:

By: _____
GRANT K. WEED, CITY ATTORNEY

Date of Publication: _____

Effective Date: _____
(5 days after publication)

EXHIBIT B

PLANNING COMMISSION



MINUTES

November 25, 2014

7:00 p.m.

City Hall

CALL TO ORDER

Chair Leifer called the November 25, 2014 meeting to order at 7:00 p.m. noting excused absence of Commissioners Lebo and Richards and the continuing absence of Commissioner Marvetta Toler. He noted that there was no one in the audience.

Marysville

Chairman: Steve Leifer

Commissioners: Roger Hoen, Jerry Andes, Kay Smith,

Staff: Planning Manager Chris Holland
Associate Planner Angela Gemmer

Absent: Steven Lebo, Kelly Richards, Marvetta Toler

APPROVAL OF MINUTES

Motion made by Commissioner Smith, seconded by Commissioner Andes, to approve the November 12, 2014 Meeting Minutes. **Motion** passed unanimously (4-0).

AUDIENCE PARTICIPATION

None

OLD BUSINESS

- Code Amendments
- Caretaker's Quarters (hearing closed)

Planning Manager Holland presented the revised draft ordinance as discussed at the last meeting. He asked if what was reflected in the revised draft ordinance is indicative of what the Planning Commission had recommended. He pointed out that in the Definitions section the Commission had talked about recreational vehicles or other temporary structures being included. He noted that if you read what a recreational vehicle entails it also includes, but is not limited to campers, motor homes, and travel

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trailers. Tents are excluded. In the GI and LI zones other temporary structures, such as Pacific Mobile construction trailers, would also be permitted because there are no design regulations. He solicited Commission comments on the revised draft ordinance.

Chair Leifer commented that the proposed draft ordinance is consistent with his recollection of the Commission's discussion. He agrees that the exclusion of other temporary structures makes sense.

Commissioner Hoen commented that they had also discussed looking into a limitation based on the size of the business. Planning Manager Holland agreed and said it had been included in the minutes, but noted that the recommendation from the Commission had not included that. Commissioner Hoen asked if staff sees any unintended consequences of allowing recreational vehicles as caretaker's quarters. Planning Manager Holland stated that staff does not support the Planning Commission's position and believes that there would be consequences for allowing recreational vehicles as caretaker's quarters.

Chair Leifer clarified his discussion with a staff member from the City of Everett which he had referred to at the last meeting. Since the last meeting, he spoke with other staff members who had a different opinion about the way the code would be interpreted, and they would not allow recreational vehicles as caretaker's quarters.

Motion made by Commissioner Andes, seconded by Commissioner Smith, to have Chair Leifer sign the Planning Commission Recommendation, which includes the revised ordinance allowing recreational vehicles as caretaker's quarters, and forward it to the Council with a recommendation for approval. **Motion** passed unanimously (4-0).

PUBLIC HEARING

Chair Leifer reopened the public hearing at 7:12 p.m.

Code Amendments:

- **Legislative Enactment Amendments**

Planning Manager Holland noted that the City got audited by the Washington Cities Insurance Authority (WCIA) this year and one of the focuses was for land use. The City passed, but WCIA pointed out a few deficiencies related to group and adult family homes. Case law states those can't be prohibited from any zone. This ordinance addresses that by permitting those uses in all zones. Also deadlines for approvals have been amended for binding site plans, subdivisions, short subdivisions, etc. Vesting regulations were also amended. Finally, the Code now clarifies what constitutes minor and major amendments for land use actions.

Commissioner Andes asked how the fees were determined. Planning Manager Holland stated that they were based on a fee study done several years ago by looking at other jurisdictions and analyzing staff time for reviews. The only proposed change to the fee

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schedule was based on the minor/major amendments modifications. The fee for minor amendments was increased to more accurately reflect the amount of staff time these reviews take.

Chair Leifer asked about extension periods on short plats. Planning Manager Holland explained that short plats and plats are governed by state law. He then reviewed timelines associated with plats and the commercial, or multi-family, site plan extension regulations.

Commissioner Andes asked if you have to prove you are making progress in the five-year period in order to get the one-year extension. Planning Manager Holland affirmed that you do have to show that you have attempted in good faith to submit the final plat within the five-year period.

Chair Leifer said he would have to recuse himself from any voting on this code amendment because he has an issue related to this. He asked what staff's position would be on any further movement on some of the stuff that is still sitting out there that has run out of time. Planning Manager Holland stated there are no proposed changes to commercial and multi-family site plan reviews. He summarized that if they were approved prior to when the Unified Development Code was adopted in 2012 they probably wouldn't be up to the design standards that are in place now. Chair Leifer asked if redesign of those projects would require all new submittal fees. Planning Manager Holland explained that if you had an approved civil construction plans and were approved under the 2005 DOE Stormwater Management Manual you likely wouldn't have to do an amendment. It would just be a matter of resubmitting the same thing and having an engineer stamp them so hopefully it wouldn't be a very big cost burden to the applicant.

Motion made by Commissioner Andes, seconded by Commissioner Smith, to approve this and forward to the Council with a recommendation for approval. **Motion** passed unanimously.

- **Nonconforming Situations**

Planning Manager Holland stated that staff is proposing to eliminate the CUP process and make this administrative which would reduce the cost. Instead, a building permit and site plan submittal showing setbacks would be required. He reviewed the proposed changes which would save costs and staff time.

Motion made by Commissioner Smith, seconded by Commissioner Andes, to approve the Nonconforming code amendments and forward to the Council with a recommendation for approval. **Motion** passed unanimously (4-0).

- **Sign Code**

Angela Gemmer reviewed the four proposed Sign code amendments:

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1. Require that signs that are freestanding and under 12-feet be monument-style signs.
2. Clarify the provision that requires that the structural posts of freestanding signs have decorative materials encasing them.
3. Clarify the intent for the changeable copy portion of the sign so it is limited to 30% of the sign area that is actually constructed.
4. Clarify the non-conforming sign provisions to indicate that converting them to an electronic changeable copy sign is not what the reface provision is intended to allow.

Commissioner Andes asked for clarification about the last one. Ms. Gemmer explained that if the sign meets the City's current design standards then you can convert whatever portion is allowable to an electronic changeable copy sign. Otherwise, you would need to retrofit the freestanding sign to meet the current sign code first. Planning Manager Holland commented that this has happened in a lot of the redevelopment of areas like the gas station on 4th Street.

Motion made by Commissioner Smith, seconded by Commissioner Hoen, to approve the sign code amendments and forward to the Council with a recommendation for approval. **Motion** passed unanimously (4-0).

- **Beekeeping**

Ms. Gemmer reviewed two draft alternative ordinances on beekeeping with the following proposed changes:

- Allow a temporary 30-day doubling of the number of hives allowed in order to avoid swarming and other nuisance conditions
- Allow five migratory hives for agricultural purposes. A three-acre site would be allowed 15 hives. Thereafter you could have an additional five hives per acre.

Alternative 1 allows two hives on lots that are less than 10,000 square feet. Alternative 2 would not allow hives on lots less than 3,500 square feet, but would allow two hives on lots over 3,500 square feet up to 10,000 square feet.

Commissioner Andes expressed concern about having hives on small lots at all. 3,500 square feet seems too small to him. Even 5,000 square feet seems too small. He stated that the City needs to protect the public and not the bees.

Commissioner Hoen asked about lot sizes in the City. Planning Manager Holland reviewed these and explained that the size is based on the type of development. As far as building coverage is concerned, in no case can you ever go over 50% of the lot size for your building coverage.

Commissioner Smith concurred with Commissioner Andes.

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Commissioner Hoen noted that according to the beekeepers the bees are foraging a mile away anyway. He was not sure what the size breaking point should be. He wondered how they would tell the difference between temporary and permanent hives.

Ms. Gemmer noted that the intent of the code is that this would be complaint-driven similar to the way chickens, dogs, or cats are handled.

There was discussion about approving Alternative 2, but amending the minimum from 3,500 to 5,000 square feet.

Motion made by Commissioner Andes, seconded by Commissioner Hoen, to approve Alternative 2 with the replacement in item 1(i) of 3,500 to 5,000 and (ii) 5,001 to 10,000 and forward to the Council with a recommendation for approval. **Motion** passed unanimously (4-0).

- **Pet Daycares and Kennels**

Ms. Gemmer explained that the proposed code would create a specific use category for pet daycares and continue to allow them in all the zones they are presently allowed except in the Mixed Use zone. Also, the definition for dog kennels is proposed to be amended to eliminate the five-acre threshold to enable dog kennels to site in zones where they would be compatible. Additionally, there are new provisions to the dog daycare and kennel and similar facilities that pertain to health and sanitary conditions that are found in most jurisdictions. There is also a provision to implement setbacks from residences for dog kennels, a provision that dog kennels and daycares comply with the Washington Administrative Code in terms of how much noise is able to be emitted, and different provisions to address noise if noise limits are exceeded.

Chair Leifer asked how the noise levels are measured. Ms. Gemmer explained that it goes by decibels and can be measured with noise equipment. She reviewed the different classes and explained that each zone has a maximum amount of decibels that can be emitted in daytime and nighttime hours.

Commissioner Andes asked about the people who wanted to do a dog shelter in the old Sears building. He noted that would be a good place for a dog kennel. Ms. Gemmer concurred and indicated she would contact them if this code is approved.

Motion made by Commissioner Hoen, seconded by Commissioner Andes, to approve the Pet Daycare and Kennel amendments as presented and forward to the Council with a recommendation for approval. **Motion** passed unanimously (4-0).

- **School, Traffic and Park Impact Fees**

Associate Planner Gemmer explained that the School, Traffic, and Park Impact Fee amendment would increase the term under which the fees collected may be expended from six years to ten years as required by state law.

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Motion made by Commissioner Andes, seconded by Commissioner Smith, to approve the amendments regarding School, Traffic, and Park Impact Fees and forward to the Council with a recommendation for approval. **Motion** passed unanimously (4-0).

- **State Environmental Policy Act**

Planning Manager Holland reviewed the proposed changes which would bring the City's code in compliance with the Phase 2 amendments.

Motion made by Commissioner Andes, seconded by Commissioner Hoen, to approve this and forward to the Council with a recommendation for approval. **Motion** passed unanimously (4-0).

- **Wireless Communication Facilities**

Planning Manager Holland stated that this is also related to SEPA review. There were some FCC laws enacted regarding existing wireless communication facilities. Based on that, the state put in an exemption for wireless communication facilities. The proposed amendment would specifically state that in the ordinance to be in compliance with state law.

Chair Leifer asked if there are provisions about locating wireless facility towers. Planning Manager Holland reviewed these.

Motion made by Commissioner Andes, seconded by Commissioner Hoen, to approve this and forward to the Council with a recommendation for approval. **Motion** passed unanimously (4-0).

The public hearing was closed at 8:10 p.m.

CITY COUNCIL AGENDA ITEMS AND MINUTES

ADJOURNMENT

Motion made by Commissioner Smith, seconded by Commissioner Andes, to adjourn the meeting at 8:11 p.m. **Motion** passed unanimously.

NEXT MEETING:

December 9, 2014



Laurie Hugdahl, Recording Secretary

EXHIBIT C

PLANNING COMMISSION



MINUTES

September 23, 2014

7:00 p.m.

City Hall

CALL TO ORDER

Chair Leifer called the September 23, 2014 meeting to order at 7:00 p.m. noting the excused absence of Roger Hoen and the continued absence of Marvetta Toler. He pointed out that there was no one in the audience.

Marysville

Chairman: Steve Leifer

Commissioners: Jerry Andes, Kelly Richards, Kay Smith, Steven Lebo

Staff: Planning Manager Chris Holland, Senior Planner Cheryl Dungan, Associate Planner Angela Gemmer

Absent: Roger Hoen, Marvetta Toler

APPROVAL OF MINUTES

September 9, 2014 Meeting Minutes

Motion made by Commissioner Smith, seconded by Commissioner Richards, to approve the September 9, 2014 Planning Commission Meeting Minutes as presented. **Motion** passed unanimously (5-0).

AUDIENCE PARTICIPATION

None

EXHIBIT C

CITIZEN ADVISORY COMMITTEE FOR HOUSING AND COMMUNITY DEVELOPMENT – PC MEMBER

Planning Manager Holland solicited a volunteer to serve on the Citizen Advisory Committee for Housing and Community Development which is a committee that oversees the CDBG program. The committee serves as a recommending body to the Council. This would involve attending approximately 3-4 short meetings a year with additional meetings on years where the 6-Year Consolidated Plan has to be updated.

There was consensus to nominate Commissioner Roger Hoen (who was not in attendance). Planning Manager Holland stated he would contact Commissioner Hoen to see if he was available. Commissioner Lebo indicated he could do it if no one else was available.

NEW BUSINESS

- Code Amendments

Critical Areas – Geologic Hazard

Senior Planner Dungan stated that due to the recent Oso slide, staff has been reviewing Geologic Hazard code and maps of the City's Critical Areas Ordinance to see if updates are needed. Staff reviewed LIDAR mapping to look for indications of previous slides in Marysville and also looked at other jurisdictions' codes. She noted that LIDAR information for Oso shows significant events over time; however Marysville's slopes are less dramatic and short runs are shorter than in Oso. Staff does not feel there is the potential for an Oso-type slide, but there are some areas, especially along creeks and along Getchell hillside that fall into the category of steep slopes where there could be a potential for landslide and erosion and areas in the flood plain where there could be liquefaction.

Ms. Dungan reviewed proposed amendments to the map and code. Currently Marysville's Critical Areas Ordinance requires a 25-foot setback from the top of bank that can be reduced to 10 feet if a geotechnical expert recommends it. Everett and several other jurisdictions have adopted the International Building Code (IBC). Staff believes this has been very well vetted and is recommending that the City switch from the straight 25-foot setback to allowing a geotechnical expert to make a recommendation on a slope. If the geotechnical expert doesn't recommend a setback or the person doesn't hire a geotechnical engineer, the City would automatically use what is set forth in the IBC which sets setbacks from both the toe and the top of bank. The toe setback would be the length of the slope divided by two plus 15 feet. The top of the slope setback would be the smaller of the height of the slope divided by three or 40 feet. If the geotechnical report recommends buffers less than those established in the IBC, then the report must specifically list their rationale and basis for the reduced buffers.

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Commissioner Andes pointed out that the people at the bottom of a slope are generally more affected than the people at the top. He asked why the setback at the bottom isn't a little further. Ms. Dungan explained that this is the IBC standard which has been well vetted through national and international experts on the subject.

Commissioner Andes asked about the picture of the second foundation. Ms. Dungan wasn't sure.

Chair Leifer summarized that with a geotechnical report there could theoretically be a zero foot setback. Ms. Dungan concurred. Chair Leifer thought that the recommendations made sense for people that want to spend the money and the resources for a site-specific review.

Ms. Dungan noted that a hearing would be set for November 12.

Commissioner Lebo asked how often they do these updates. Ms. Dungan replied this is the first time they have reviewed them since 1992, and there haven't been many changes. Commissioner Lebo noted that in areas where they take a lot of trees out things do change. Ms. Dungan concurred. She noted that is why staff would request a geotechnical report in hazardous areas. She stressed that this is putting a lot of the burden on the geotechnical expert who is writing the report to make the recommendation on the setback. Commissioner Lebo referred to the south side to the east side of Whiskey Ridge which is a sloped area with lots of trees gone. Ms. Dungan concurred and noted that most of the area has been developed based on the recommendations of geotechnical experts and with the City's requirement of the retention of vegetation on the steep slopes. Staff periodically looks at LIDAR to see if there are any concerns. In most cases if the vegetation remains the slope is protected.

SEPA Phase 2 Revisions

In 2012 the Planning Commission reviewed Phase 1 SEPA revisions, which were much more significant than the Phase 2 SEPA changes. The majority of these Phase 2 revisions were adopted by reference of SEPA with the exception of a couple places where some wording was changed or text was moved around. She summarized what the state legislature adopted in Phase 2 as well as the proposed staff recommended code amendments contained in the Commission's packet. There were no questions.

SEPA/Wireless Communication Facilities (WCF) Exemption

Senior Planner Dungan explained that there was an additional subsection added that lists wireless facilities that are categorically exempt and references the WAC and MMC as applicable. There were no questions.

EXHIBIT C

School, traffic and park impact fee expenditures

Associate Planner Angela Gemmer explained that the state has increased the amount of time cities have to use the impact fees to ten years from six years. The City is recommending a similar change to be consistent with the state's requirements.

Chair Leifer commented that on one of these when it's collected is well-noted, but it's not so clear on the others. Ms. Gemmer replied that she had only included the portion of the code where the changes were occurring. She offered to bring back the full code sections to answer his question.

Chair Leifer referred to page 2 (item 3b at the top of the page) regarding when and how to grant a credit and noted that it seemed ambiguous. He asked why the owner would be eligible for a credit if the project didn't happen. Why did he pay it in the first place? Planning Manager Holland thought that this referred to situations where the owner might have paid in advance. He thought this might be clarified by looking at the entire code instead of just this portion. He offered to bring back the whole section. Planning Manager Holland also noticed that the "five years" in this section needs to be changed to "ten years". He commented they would search the section to see if there were any other spots where this needed to be changed.

Chair Leifer asked for clarification on School Impact Fees, item d. Planning Manager Holland explained that this was to avoid charging someone twice for impact fees when they pay for an actual capital facilities project identified in the district's capital facilities plan.

Chair Leifer asked how this fits in to the special exemptions on impact fees that apply until July of 2015. Planning Manager Holland explained that the exemptions would stay in place until they sunset in July of 2015.

Chair Leifer referred to real estate tax exemptions and said he was told that Quilceda Creek was exempted from real estate tax. Planning Manager Holland clarified that those units are not market rate. The exemption only works for affordable housing outside of the downtown area.

Sign Code

Associate Planner Gemmer reviewed proposed changes to the sign code:

1. Clarify that the base of freestanding signs are to be wrapped with decorative material.
2. The electronic portion of the sign could only be 30% of the sign that is actually constructed as opposed to 30% of the sign area that could potentially be built.
3. Clarify the nonconforming sign code provision.
4. Signs 12-foot tall or under would be required to monument signs with the exception of directional signs.

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Chair Leifer referred to section 5 regarding streamers, pennants, and banners and asked if this would rule out temporary uses of those things. Ms. Gemmer replied that it would not. Those would be addressed in the Temporary Use section.

Commissioner Andes commented that A-board signs are all over the place and no one seems to be doing anything about it. He referred to one by K-Mart that advertises a shop on the other side of the street. He asked when the City would get around to enforcing the existing code. Planning Manager Holland stated that proactive enforcement has been a staffing problem. He commented that staff does regularly pick up A-board signs that do not comply with regulations. There is a conscious effort to not pick on commercial businesses, but if they are blocking the sidewalk or being a distraction to traffic staff will take action. He recommended that people email him if they notice signs that are a problem.

Commissioner Lebo asked about political campaign signs. Planning Manager Holland stated that there are very strict regulations about this, and the City can't touch them. Candidates are supposed to remove them when the campaign is over.

Billboards

Planning Manager Holland explained that Clear Channel has challenged the City's Ordinance to apply the amortization schedule to get rid of billboards. Staff has met with Clear Channel on numerous occasions to talk to them about what the City would like to see done. There are currently 25 billboards and 42 billboard faces in the City. The highest priority for removing billboards is in the downtown area, anywhere south of Grove. Highlights to proposed changes:

- If you install an electronic billboard you would need to remove five other billboards.
- No more than two faces would be allowed for electronic billboards.
- No new billboards unless they are electronic.
- Billboards would have to be available for public service announcements such as Amber Alerts and Strawberry Festival announcements.
- Billboards need to be spaced a minimum of 1000 feet apart.
- There is a 35-foot height limit.
- There is a 100-foot minimum setback from an intersection or a greater distance if other factors are involved that would be a public hazard.
- An electronic billboard would have a 10-foot property setback from the edge of the billboard and 15 feet from the foundation to the public right-of-way.
- There would be a setback of 100 feet from any residential zone
- Additional setbacks could apply for view corridors.
- The recommendation is 5,000 nits in daytime and 500 between sunset and sunrise. LEDs must also have dimming capabilities.
- The rate of changes would be allowed to change not more than once every 8 seconds.

EXHIBIT C

Commissioner Andes commented that 288 square feet seems like a very large sign. Planning Manager Holland noted that it's not as big as it sounds. He offered to provide some pictures so the commissioners could see them in context.

There was discussion about some electronic signs around town and their levels of brightness.

Planning Manager Holland clarified that on Exhibit A the sending area would need to be extended up to include the whole State Avenue to Smokey Pt. Blvd. corridor and end the receiving area at 152nd South to 100th.

OLD BUSINESS

- Honey Bees

Associate Planner Gemmer responded to questions raised at the previous meeting and reviewed proposed amendments regarding beekeeping as contained in her Memo to Gloria Hirashima dated September 17, 2014 (in the Commission's packet).

Commissioner Richards asked how they could get people who are not registered to register. Ms. Gemmer said they could inform people of the requirements if they ask or if someone informs the City of an issue they can send a letter. In general, the philosophy of the City is to not intervene unless there is an issue with compliance that is brought to their attention.

Commissioner Lebo thought that two beehives on 5,000 square feet seems like too much. Ms. Gemmer explained that the beehives are pretty small boxes. She noted that these are suggestions based on other jurisdictions and research staff has done, but the Planning Commission could recommend changes.

Chair Leifer wondered how many bees there are per acre in a natural setting. Ms. Gemmer offered to try to find the answer to that. Chair Leifer wondered how the number of feral bees compares to the proposed allowable amount.

Commissioner Lebo commented that he has a friend who keeps bees and the queen bee occasionally escapes with the whole hive following her and the owner has to go retrieve them.

Planning Manager Holland stated this would be covered at the hearing.

Commissioner Lebo suggested inviting the Department of Agriculture to the hearing to stress the importance of registering hives.

EXHIBIT C

- Kennels

Associate Planner Gemmer reviewed the proposed amendments regarding dog daycares and kennels as contained in her Memo to CAO Hirashima dated September 17, 2014.

Commissioner Lebo asked how staff perceives the enforcement of this. Ms. Gemmer stated that if there are any complaints staff would definitely enforce the code. She noted that there are two dog daycares in town and there haven't been any problems to date. Planning Manager Holland stated that the City also has decibel- measuring equipment that can be utilized if necessary.

NEXT MEETING – October 14

Planning Manager Holland stated that at the next meeting on October 14 the Planning Commission would be covering the Marysville housing profiles. A representative from Snohomish County Housing Authority, who staffs the Affordable Housing Alliance for Snohomish County, will be coming to that meeting.

The School District's capital facilities plans will also be presented at the next meeting. A representative from each district will be present to go over their plans.

Chair Leifer thanked staff for the information provided on Industrial Center areas.

CITY COUNCIL AGENDA ITEMS AND MINUTES

None

ADJOURNMENT

Motion made by Commissioner Richards, seconded by Commissioner Smith, to adjourn the meeting at 8:32 p.m. **Motion** passed unanimously (5-0).



Laurie Hugdahl, Recording Secretary

CITY OF MARYSVILLE
Marysville, Washington
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, AMENDING MMC 22D.020.090(5); MMC 22D.020.100 REGARDING PARKS, RECREATION, OPEN SPACE AND TRAIL IMPACT FEES AND MITIGATION; MMC 22D.040.050; MMC 22D.040.60 REGARDING SCHOOL IMPACT FEES AND MITIGATION; MMC 22D.030.070 REGARDING TRAFFIC IMPACT FEES AND MITIGATION; MMC 22A.010.160 REGARDING GENERAL ADMINISTRATION, RELATED TO TRACKING AMENDMENTS TO THE CITY'S UNIFIED DEVELOPMENT CODE; PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE.

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, the development code amendments herein are consistent with the following required findings of MMC 22G.010.500:

- (1) The amendment is consistent with the purposes of the comprehensive plan;
- (2) The amendment is consistent with the purpose of this title;
- (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.

WHEREAS, the Planning Commission discussed the above-referenced amendments during a public meeting held on September 23, 2014; and

WHEREAS, after providing notice to the public as required by law, on November 12, 2014, the Marysville Planning Commission held a Public Hearing on proposed amendments to the City's development regulations which was continued to November 25, 2014; and

WHEREAS, on November 25, 2014, at the continued public hearing, the Marysville Planning Commission made a Recommendation to the City Council recommending the adoption of the proposed amendments to the City's development regulations; and

WHEREAS, at a public meeting on January 12, 2015, the Marysville City Council reviewed and considered the Marysville Planning Commission's Recommendation and proposed amendments to the City's development regulations; and

WHEREAS, the City of Marysville has submitted the proposed development regulation revisions to the Washington State Department of Commerce on September 24, 2014, seeking expedited review under RCW 36.70A.160(3)(b) in compliance with the procedural requirements of 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);

NOW, THEREFORE, the City Council of the City of Marysville, Washington do ordain as follows:

Section 1. MMC 22D.020.090(5), is hereby amended to read as follows. (All other provisions of MMC 22D.020.090 remain in effect and unchanged):

(5) Impact fees shall be expended or encumbered for a permissible use within ~~six~~ ten years of the date they are received by the city of Marysville finance department unless the city council makes written findings that there exists an extraordinary and compelling reason for fees to be held longer than ~~six~~ ten years.

Section 2. MMC 22D.020.100(2)(a), is hereby amended to read as follows. (All other provisions of MMC 22D.020.100 remain in effect and unchanged):

(2) Refunds of Unencumbered Impact Fees.

(a) The current owner of property on which impact fees have been paid may apply for and receive a refund of these fees if the impact fees have not been expended or encumbered within the time limits in MMC 22D.020.090(5) unless the city council has extended the ~~six~~ ten year period by finding that there is an extraordinary and compelling reason to hold such fees for a longer period. Refunds of impact fees under this subsection (2) shall include any interest earned on the impact fees by the city. In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first-in, first-out basis.

Section 3. MMC 22D.040.050(4)(b), is hereby amended to read as follows. (All other provisions of MMC 22D.040.050 remain in effect and unchanged):

(4) Impact Fee Limitations.

(b) School impact fees must be expended or encumbered for a permissible use within ~~six~~ ten years of receipt by the district.

Section 4. MMC 22D.040.060(4)(a), is hereby amended to read as follows. (All other provisions of MMC 22D.040.060 remain in effect and unchanged):

(4) Refunds.

(a) School impact fees not spent or encumbered within ~~six~~ ten years after they were collected shall, upon receipt of a proper and accurate claim, be refunded, together with interest, to the then current owner of the property. In determining whether school impact fees have been encumbered, impact fees shall be considered encumbered on a first-in, first-out basis. At least annually, the city, based on the annual report received from each district pursuant to subsection (2)(d) of this section, shall give notice to the last known address of potential claimants of any funds, if any, that it has collected that have not been spent or encumbered. The notice will state that any persons entitled to such refunds may make claims.

Section 5. MMC 22D.030.070(9)(a)(iv), is hereby amended to read as follows. (All other provisions of MMC 22D.030.070 remain in effect and unchanged):

(9) Administration of Traffic Impact Fees.

(a) Any traffic impact fees made pursuant to this title shall be subject to the following provisions:

(iv) The fee payer may receive a refund of such fees if the city fails to expend or encumber the impact fees within ~~six~~ ten years of when the fees were paid, or other such period of time established pursuant to RCW 82.02.070(3), on transportation facilities intended to benefit the development for which the traffic impact fees were paid, unless the city council finds that there exists an extraordinary and compelling reason for fees to be held longer than ~~six~~ ten years. These findings shall be set forth in writing and approved by the city council. In determining whether traffic impact fees have been encumbered, impact fees shall be considered encumbered on a first-in/first-out basis. The city shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of claimants.

Section 6. MMC 22A.010.160, Amendments, 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>
_____	Term for Expending Impact Fees	_____, 2015”

Section 7. Severability. If any section, subsection, sentence, clause, phrase or word 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 8. 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 _____, 2015.

CITY OF MARYSVILLE

By: _____
JON NEHRING, MAYOR

Attest:

By: _____
APRIL O'BRIEN, DEPUTY CITY CLERK

Approved as to form:

By: _____
CITY ATTORNEY

Date of Publication: _____

Effective Date: _____
(5 days after publication)