

CITY OF MARYSVILLE
Marysville, Washington

ORDINANCE _____

**AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON,
AMENDING CHAPTER 6.28 TO THE MARYSVILLE MUNICIPAL
CODE ENTITLED “STAY OUT OF DRUG AREAS (SODA) ORDERS” TO
AMEND 6.28.030 TO ADD PENALTIES; PROVIDING FOR
SEVERABILITY; AND EFFECTIVE DATE.**

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

Section 1. MMC Chapter 6.28 entitled “**STAY OUT OF DRUG AREAS (SODA) ORDERS**” is hereby amended to read as follows:

Chapter 6.28
STAY OUT OF DRUG AREAS (SODA) ORDERS

Sections:

- 6.28.010 Orders – Conditions.
- 6.28.020 Person subject to court order defined.
- 6.28.025 Stay out of drug areas orders – Issuance – Other court orders.
- 6.28.030 Violation of order – ~~Rearrest~~ - Penalties
- 6.28.040 Prohibited areas – Designation – Modification and termination.

6.28.010 Orders – Conditions.

Any judge or judge pro tempore of the Marysville municipal court may issue written orders to criminal defendants describing conditions of their pretrial release or the post-conviction conditions of suspension or deferral of their sentences. Orders must be substantially in the form described in this chapter. (Ord. 2886 § 1, 2012).

6.28.020 Person subject to court order defined.

As used in this chapter, “person subject to court order” means any person who is subject to an order issued under MMC [6.28.010](#). (Ord. 2886 § 1, 2012).

6.28.025 Stay out of drug areas orders – Issuance – Other court orders.

(1) Any order issued pursuant to this chapter that specifically orders as a condition of pretrial release and/or deferral or suspension of sentence that the defendant stay out of areas with a high level of illegal drug trafficking shall be hereinafter referred to as a “SODA” (“Stay Out of Drug Areas”) order.

(2) SODA orders may be issued to anyone charged with or convicted of possession of drug paraphernalia, manufacture/delivery of drug paraphernalia, delivery of drug paraphernalia to a minor, selling/giving drug paraphernalia to another person, possession of marijuana, or any of the aforementioned crimes that occur within a drug-free zone.

(3) Nothing within this section shall be construed as precluding the court from issuing an order pursuant to this chapter that is not specifically a SODA order. (Ord. 2886 § 1, 2012).

6.28.030 Violation of order – Rearrest - Penalties.

(1) Written orders issued under this chapter shall contain the court’s directives and shall bear the legend:

WARNING: Violation of this order subjects the violator to ~~arrest~~ rearrest under Chapter 6.28 MMC and and shall constitute a separate criminal offense and may result in imposition of suspended or deferred jail time and/or fine.

~~(2) Whenever a police officer shall have probable cause to believe that a person is subject to an order issued under this chapter and the person knows of the order, and that a violation of the order is occurring in the officer’s presence, the officer shall have the authority to bring the person before the court wherein the order was issued, and for such purpose may rearrest such person without warrant or other process. (Ord. 2886 § 1, 2012).~~

(2) - Penalties

A person who knowingly and willfully disobeys a SODA” (“Stay Out of Drug Areas”) order issued under this chapter is guilty of a gross misdemeanor.

6.28.040 Prohibited areas – Designation – Modification and termination.

(1) Whenever an order is issued under this chapter, the subject of the order may be ordered to stay out of certain areas that are set forth within the written order. These areas will hereinafter be referred to as “prohibited areas.”

(2) Prohibited areas that are set forth in SODA orders shall be established by a resolution of the city council, at a minimum of every two years. The police department shall provide information to the city council to support establishment and/or the elimination of prohibited areas in the form of one or more declarations and/or other sworn testimony. The declaration(s) and/or other sworn testimony shall:

(a) Be by declarant(s) familiar with areas of the city that suffer a high incidence of drug trafficking activity;

- (b) Set forth the education, experience and other relevant qualifications of the declarant(s);
- (c) Set forth the basis for proposing prohibited areas, e.g., crime mapping data or other information;
- (d) Describe the proposed prohibited areas; and
- (e) Provide other information that supports the council's review and determination of prohibited areas.

(3) Prohibited areas that are set forth in orders issued under this chapter other than SODA orders may be set by court discretion and are not required to be set in accordance with subsection (2) of this section.

(4) Upon request for modification or termination of any order issued under this chapter, the court shall consider the requested modification or termination by allowing for a process by which the subject of the order can provide relevant testimony or other evidence in support of his/her request.

(5) Unless otherwise ordered by the court, an order issued under this chapter shall have as its termination date two years from the date of its issuance.

(6) Whenever an order is issued, modified or terminated pursuant to this chapter, the clerk of the court shall forward a copy of the order on or before the next judicial day to the Marysville police department. Upon receipt of the copy of the order, the Marysville police department shall enter the order until the expiration date specified on the order into any computer-based criminal intelligence information system(s) available to Marysville police officers. Upon receipt of notice that an order has been terminated, the Marysville police department shall remove the order from the computer-based criminal intelligence information system(s).

(7) Nothing in any provision of this chapter related to SODA orders shall be construed as prohibiting the subject of a SODA order from participating in a scheduled court hearing or from attending a scheduled meeting with his/her legal counsel within a prohibited area. (Ord. 2886 § 1, 2012).

Section 2. General Duty. It is expressly the purpose of this ordinance to provide for and promote the health safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this ordinance. It is the specific intent of this ordinance that no provision nor any term used in this ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this ordinance is intended

nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this ordinance by its officers, employees or agents.

Section 3. 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 4. 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 _____, 2013.

CITY OF MARYSVILLE

By _____
Jon Nehring, Mayor

ATTEST:

By _____
April O'Brien, Deputy City Clerk

Approved as to form:

By _____
Grant Weed, City Attorney

Date of Publication: _____

Effective Date (5 days after publication): _____