

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: January 13, 2013

AGENDA ITEM: Amend portions of the Marysville Municipal Code to allow consistency in enforcement and penalty procedures outlined in Chapter 4.02 MMC <i>Enforcement Procedures</i>	AGENDA SECTION: New Business	
PREPARED BY: Chris Holland, Planning Manager	APPROVED BY:	
ATTACHMENTS: 1. Ordinance 2873 2. Adopting Ordinance		
	MAYOR	CAO
BUDGET CODE:	AMOUNT:	

DESCRIPTION:

In 2011, Marysville City Council adopted Ordinance 2873, amending the enforcement procedures in Chapter 4.02 MMC and public nuisances in Chapter 6.24 MMC. Since adoption of Ordinance 2873 staff has noticed inconsistencies, which has made enforcement and penalties difficult to enforce. Attached is an ordinance that would eliminate discrepancies and revise the penalty provisions referenced in MMC 4.02.040 to have consistency in the MMC.

In addition to amending the MMC to be consistent, all third and subsequent violations of the schedule outlined in MMC 4.02.040(3)(g)(ii), are proposed to be a misdemeanor.

RECOMMENDED ACTION:

Approve the Ordinance amending portions of the Marysville Municipal Code to allow consistency in enforcement and penalty procedures outlined in Chapter 4.02 *Enforcement Procedures*.

COUNCIL ACTION:

**CITY OF MARYSVILLE
Marysville, Washington**

ORDINANCE 2873

AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, AMENDING PORTIONS OF MARYSVILLE MUNICIPAL CODE CHAPTER 4.02 ENTITLED “ENFORCEMENT PROCEDURES” AND CHAPTER 6.24 ENTITLED “PUBLIC NUISANCE” ; PROVIDING FOR SEVERABILITY; AND EFFECTIVE DATE.

WHEREAS, the City Council finds that it is in the public interest to update the City’s code enforcement and nuisance regulations;

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

Section 1. MMC Chapter 4.02 entitled “ENFORCEMENT PROCEDURES” is hereby amended to read as follows:

**Chapter 4.02
ENFORCEMENT PROCEDURES**

Sections:

- 4.02.010 Purposes.
- 4.02.020 Definitions.
- 4.02.030 Citizen complaints.
- 4.02.040 Penalties and enforcement.
- 4.02.050 Code enforcement procedures manual.

4.02.010 Purposes.

The purposes of this title are:

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

4.02.020 Definitions.

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

- (1) "City" means the city of Marysville, Washington.
- (2) "Director" means the directors of any department of the city, or such other head of a department that is authorized to utilize the provisions of this title to enforce violations of the MMC and shall include any duly authorized representative of such director. If more than one department is authorized to act under this title, the term "director" shall also be understood to mean all applicable directors.
- (3) "Hearing examiner" means the city of Marysville hearing examiner, codified by Chapter 22G.060 MMC, or the examiner's duly authorized representative.
- (4) "MMC" means the Marysville Municipal Code.
- (5) "Permit" means any form of certificate, approval, registration, license or other written permission given to any person to engage in any activity as required by law, ordinance or regulation. The term "permit" shall not include preliminary or final plat approval or any rezone.
- (6) "Person" as used in this title includes any natural person, organization, corporation or partnership and its agents, representatives or assigns.
- (7) "Public nuisance" means the following:
 - (a) A nuisance or public nuisance as defined in state statute or city ordinance, including but not limited to Chapter 7.48 RCW and Chapters 6.24, 6.25 and 7.04 MMC;
 - (b) A nuisance at common law, either public or private;
 - (c) A violation of the city's land use, zoning, and environmental regulations (MMC Title 22), construction code regulations (MMC Title 16), water, sewer, and storm water regulations (MMC Title 14), business license regulations (MMC Title 5), noise regulations (Chapter 6.76 MMC), health and sanitation regulations (MMC Title 7), fire regulations (MMC Title 9), animal control regulations (MMC Title 10), abandoned, unauthorized, and junk vehicle regulations (Chapter 11.36 MMC), and any other violation of the Marysville Municipal Code that poses a threat to the public health, safety or welfare.
- (8) "Screened from public view" means sight-obscuring fencing and/or landscaping is installed around the area or objects. (Ord. 2763 § 1, 2009; Ord. 2045 § 1, 1995).

4.02.030 Citizen complaints.

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

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

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

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

4.02.040 Penalties and enforcement.

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

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

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

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

		First Violation		Repeat Violation	
Code Provisions		Noncommercial	Commercial	Noncommercial	Commercial
Title	Chapter				
4 Enforcement Code	4.02 Enforcement Procedures	\$300	\$500	\$600	\$1,000
5	5.02	\$150	\$250	\$300	\$500

Business Regulations and Licenses	Business Licenses				
6 Penal Code	6.24 Public Nuisances	\$150	\$250	Second violation \$300 *third violation see <u>4.02.040 3 g iii below</u>	Second violation \$500 * third violation see <u>4.02.040 3 g iii below</u>
	6.76 Noise Regulation	\$150	\$250	\$300	\$500
7 Health and Sanitation	7.04 Unsanitary Conditions – Nuisances	\$150	\$250	\$300	\$500
	7.08 Garbage Collection	\$150	\$250	\$300	\$500
9 Fire	9.04 Fire Code	\$150	\$250	\$300	\$500
12 Streets and Sidewalks	12.24 Sidewalks – Dangerous Conditions	\$150	\$250	\$300	\$500
	12.36 Vegetation	\$150	\$250	\$300	\$500
	12.40 Clean Condition of Public Right-of-Way	\$150	\$250	\$300	\$500
14 Water and Sewers	14.01 General Provisions	\$150	\$250	\$300	\$500
	14.15 Controlling Stormwater Runoff from New Development, Redevelopment, and Construction Sites	\$150	\$250	\$300	\$500

	14.16 Operation and Maintenance of Public Storm Drainage Systems	\$150	\$250	\$300	\$500
	14.17 Operation and Maintenance of Private Storm Drainage Systems	\$150	\$250	\$300	\$500
		Plus any costs incurred for the maintenance of failed private stormwater systems.			
	14.21 Illicit Discharge Detection and Elimination (IDDE)	\$150	\$250	\$300	\$500
		Plus city's costs for abatement, sampling and/or monitoring.			
16 Building	16.04 Building Code	\$150	\$250	\$300	\$500
22 Unified Development Code	Title 22C Land Use Standards	\$150	\$250	\$300	\$500
	22E.010 Critical Areas Management	\$250	\$350	\$500	\$700
	22D.050 Clearing, Grading, Filling and Erosion Control	\$250	\$350	\$500	\$700

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

* (iii) Criminal violations for third and subsequent violations of Chapter 6.24 Public Nuisance will be pursuant MMC 6.24.040 and through Marysville municipal court as set forth in the Marysville Municipal Code, state law, the Washington State Court Rules(CrRLJ) Limited Jurisdiction Court Rules and local court rules for Marysville municipal court; and/or 4.01.040 (4); and /or

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

(h) Mitigate civil fines.

(i) The director may reduce or waive civil fines assessed under this chapter if the violation is corrected within the specified deadline and the correction is verified

by the city. A reduction shall be in writing and state the date on which the violation was corrected.

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

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

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

(5) Inspections.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The order shall contain:

(i) The street address, when available, and a legal description of the real property;

(ii) A statement that the director has found the person to be in violation of this title and a brief and concise description of the condition found to be in violation;

(iii) A statement of the corrective action to be taken;

(iv) A statement that the order shall expire by its own terms in 10 days unless extended in writing or a permanent order is issued;

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

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

(8) Permanent Enforcement Order.

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

(b) The permanent enforcement order shall contain:

(i) The street address and, when available, a legal description of real property;

(ii) A statement that the director has found the person to be in violation of this title and a brief and concise description of the conditions found to be in violation;

(iii) A statement of the corrective action required to be taken. If the director has determined that corrective work is required, the order shall mandate that all required permits be secured and the work be physically commenced and completed within such time as the director determines is reasonable under the circumstances, but in no event shall such time exceed 90 days;

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

(v) Statements advising:

(A) If any required work is not commenced or completed within the time specified, the director shall proceed to abate the violation and cause the work to be done and charge the costs thereof as a lien against the property

and any other property owned by the person in violation and as a personal obligation of any person in violation; and

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

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

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

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

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

(9) Appeal.

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

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

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

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

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

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

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

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

(12) Lien.

- (a) City Has Lien. The city of Marysville shall have a lien for any civil penalty imposed or for the cost of any work or abatement done pursuant to this title, or both, against the real property on which the civil penalty was imposed or any of the work of abatement was performed and against any other real property owned by any person in violation. The civil penalty shall be a joint and several obligation of all people found to be in

violation. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be superior to all other liens, except for state and county taxes, with which it shall be on a parity.

(b) Director's Authority to Claim Lien. The director shall cause a claim for lien to be filed for record with the auditor within 90 days from the date the civil penalty is due or within 90 days from the date of completion of the work or abatement performed by the city of Marysville pursuant to this title.

(c) Notice of Lien. The notice and order of a director pursuant to this title shall give notice to the owner that a lien for the civil penalty or the cost of abatement, or both, may be claimed by the city. Service of the notice and order shall be made upon all persons identified in the notice and order either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested.

(d) Contents of Lien. The claim of lien shall contain the following:

(i) The authority for imposing a civil penalty or proceeding to abate the violation, or both;

(ii) A brief description of the civil penalty imposed or the abatement work done, or both, including the violations charged and the duration thereof, the time the work was commenced and completed and the name of the persons or organizations performing the work;

(iii) A legal description of the property to be charged with the lien;

(iv) The name of the known or reputed owner; and

(v) The amount, including lawful and reasonable costs, for which the lien is claimed.

(e) Verification of Lien. The lien shall be verified by the director to the effect that the director believes that the claim is just.

(f) Filing of Lien. The lien shall be recorded with the Snohomish County auditor.

(g) Duration of Lien. No lien created under this title shall bind the property for a period longer than three years after the claim has been filed unless an action is commenced in the proper court within that time to enforce the lien.

(h) Foreclosure of Lien. The lien may be foreclosed by a civil action in Snohomish County superior court.

(i) Removal of Lien. All liens shall be removed by the city of Marysville when all conditions placed upon the violator(s) by a notice and order or by the hearing examiner have been satisfied. (Ord. 2816 § 2, 2010; Ord. 2763 § 1, 2009; Ord. 2045 § 1, 1995).

4.02.050 Code enforcement procedures manual.

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

Section 2. MMC Chapter 6.24 entitled “PUBLIC NUISANCES” is hereby amended to read as follows:

**Chapter 6.24
PUBLIC NUISANCES**

Sections:

- 6.24.010 Purpose and intent.
- 6.24.020 Definitions.
- 6.24.030 Statutes incorporated by reference.
- 6.24.040 Penalties and enforcement.
- 6.24.050 Types of nuisances.
- 6.24.060 Forced abatement.

6.24.010 Purpose and intent.

The purpose of this chapter is to create a system to maintain and protect the health, safety and welfare of the citizens of the city of Marysville and to establish the means by which compliance shall be accomplished. (Ord. 2046 § 1, 1995).

6.24.020 Definitions.

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

(1) "Abate" means to repair, replace, remove, destroy, correct or otherwise remedy the condition in question by such means and in such a manner and to such an extent as the director's judgment determines is necessary in the interest of the general safety and welfare of the community.

(2) "Director" means the directors of any department of the city, or such other head of a department that the city council has authorized by ordinance to utilize the provisions of this title and shall include any duly authorized representative of such director. If more than one

department is authorized to act under this title, the term "director" shall also be understood to mean all applicable "directors."

(3) "Nuisance" is the unlawful performance of an act or omission to perform a duty, which act or omission either annoys, injures or endangers the comfort, repose, health or safety of others, offends decency, or unlawfully interferes with, obstructs or tends to obstruct, or render dangerous for passage, any lake or navigable river, bay, stream, canal or basin, or any public park, square, street or highway; or in any way renders other persons insecure in life, or in the use of property.

(4) "Person" means any natural person, organization, corporation or partnership and their agents, representatives or assigns.

(5) "Premises" means any building, lot, parcel, real estate, land or portion thereof whether improved or unimproved, including adjacent sidewalks and parking strips.

(6) "Public nuisance" is a nuisance that affects equally the rights of an entire community or neighborhood, although the extent of the damage may be unequal. (Ord. 2046 § 1, 1995).

6.24.030 Statutes incorporated by reference.

The following statutes regarding public nuisances are incorporated by reference:

RCW

9.66.010 Public nuisance.

9.66.020 Unequal damage.

9.66.030 Maintaining or permitting nuisance.

9.66.050 Deposit of unwholesome substance; or establishment of detrimental business.

(Ord. 2046 § 1, 1995).

6.24.040 Penalties and enforcement.

The director and/or the Marysville Police Chief/Department is charged with enforcement of the provisions of this chapter. It shall be unlawful for any person to allow a "public nuisance" upon any premises within the city of Marysville. Such violations shall be corrected by any reasonable and lawful means as provided in this chapter or titles, chapters, and sections of the MMC.

(1) It is unlawful for any responsible person or owner to permit, maintain, suffer, carry on or allow a public nuisance to exist, as defined by this chapter, upon his/her premises any act or thing declared a nuisance by this chapter.

(2) The first and second violations shall be a civil infraction under MMC Chapter 4.02.040 in the amounts set forth in MMC 4.02.040 (g) (ii) and (iii).

(3) The third and subsequent violation of this chapter by the same responsible person within three years of his/her first violation are a criminal misdemeanor and shall carry a penalty of not more

than \$1000 (plus costs and assessments) in which \$500 shall be the minimum, or 90 days in jail, or both.

~~(2) A violation of this chapter shall be a misdemeanor and shall be punishable by a penalty not to exceed \$1,000, in addition to any civil remedies for abatement and collection for the expense thereof.~~

~~(3) If the same responsible person is found to be in violation of this chapter within three years of his/her first violation, such violation and any other subsequent violation shall carry a penalty of not more than \$1,000 in which \$150.00 shall be the minimum, or 90 days in jail, or both.~~

(4) Each day the violation is in existence may be considered a separate violation. (Ord. 2046 § 1, 1995).

6.24.050 Types of nuisances.

It shall be a "public nuisance" within the city of Marysville, and a violation of the Marysville Municipal Code, if any responsible person or persons shall maintain or allow to be maintained on real property which he or she may have charge, control or occupy, except as may be permitted by any other city ordinance, whether visible or not from any public street, alley or residence, any of the following conditions:

(1) Every person who makes or keeps any explosive or combustible substance in the city, or carries it through the streets thereof, in quantity or manner prohibited by Chapter 70.74 RCW, and every person who, by careless, negligent or unauthorized use or management of any such explosive or combustible substance, injures or causes injury to the person or property of another.

(2) No person shall permit or allow outside of any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling or other structure under his control, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has an airtight door or lid, snap lock or other automatic locking device which may not be released from the inside, without first removing said door or lid, snap lock or other locking device from said refrigerator, icebox or container.

(3) No person shall abandon or discontinue use of or permit or maintain on his premises any abandoned or unused well, cistern or storage tank without first demolishing or removing from the city such storage tank, or securely closing and barring any entrance or trap door thereto, or filling any well or cistern, or capping the same with sufficient security to prevent access thereto by children.

(4) No person shall, without lawful authority from the appropriate public entity, attach any advertising signs, posters, or any other similar object, to any public structure, sign or traffic-control device.

(5) No person shall attach to utility poles any of the following: advertising signs, posters, vending machines, or any similar object which presents a hazard to, or endangers the lives of, electrical workers. Any attachment to utility poles shall only be made with the permission of the utility company involved, and shall be placed not less than 12 feet above the surface of the ground.

(6) Accumulations of the following materials in any front yard, side yard, rear yard or vacant lot unless screened from public view from the adjacent frontage street or streets: any and all junk, trash, litter, garbage, boxes, bottles, or cans; any and all unused animal pens or cages, including any type of insect enclosures; and any and all discarded lumber, salvaged materials, or other similar materials, except for such materials being used for an immediate construction project on said premises.

(7) Any attractive nuisances dangerous to children including, but not limited to, abandoned, broken or neglected buildings, equipment, machinery, refrigerators and freezers, excavations, shafts, or insufficiently supported walls or fences in any front yard, side yard, rear yard or vacant lot.

(8) Broken or discarded furniture, furnishings, appliances, household equipment and other similar items, in any front yard, side yard, rear yard or vacant lot unless screened from public view from adjacent frontage street or streets.

(9) Dead, decayed, diseased or hazardous trees or vegetation/grass clippings (except that used as compost for fertilizer), including that which by casual contact with the skin is dangerous to public health, safety and welfare, located in any front yard, side yard, rear yard or vacant lot.

(10) Graffiti, pursuant to Chapter 6.25 MMC.

(11) Abandoned and junk vehicles as defined by MMC 11.36.030.

(12) Nonoperational or unused automobiles or parts thereof, or other articles of personal property which are discarded or left in a state of partial construction or repair for longer than 30 days, in any front yard, side yard, rear yard or vacant lot unless screened from public view from the adjacent frontage street or streets. "Nonoperational or unused automobile" means an automobile substantially meeting one of the following requirements:

(a) Is immobile because it either:

(i) Lacks an engine or other parts or equipment necessary to operate it safely or legally on the street;

(ii) Has one or more flat tires; or

(iii) Is mounted on skids or jacks;

(b) Has overgrown vegetation or garbage or debris collecting underneath; or

(c) Is used primarily to store items such as auto parts, yard tools, garbage, debris, clothing, miscellaneous household items, etc.

(13) Vegetation exceeding 12 inches in height (exclusive of plants and flowers within a flower bed, shrubbery and trees) located in any front yard, side yard, or rear yard of a residential lot within a platted subdivision unless screened from public view from the adjacent frontage street or streets.

(14) Utility trailers, unmounted camper or recreation vehicles shall not be located in the front yard. They may be located in the driveway, parallel to the driveway, or behind the front building line of the property on either side of the building on a maintained surface.

(15) Accessory structures, including detached garages, sheds, decks, patios and similar structures, which are not maintained structurally sound and in good repair.

(16) Any unfinished structure for which there has been a cessation of construction activity for more than two years and which is determined by the city to be in violation of the building code and subject to abatement by demolition or completion of the construction to meet the requirements of the building code.

(17) Any catastrophic or fire-damaged premises which have not been secured from entry and from which all debris has not been removed and properly discarded as directed by the fire marshal and building official.

(18) Fences, walls, hedges and retaining walls that are not maintained in a structurally sound and sanitary condition so as to endanger the public health, safety or welfare.

(19) Exterior properties that are not graded and maintained to prevent the erosion of soil and to prevent the accumulation of water on the premises. Storm water, including discharge from gutters, downspouts, swimming pools, hot tubs, spas, sump pumps or similar features, shall not discharge off the source premises unless expressly approved by the city of Marysville.

(20) Open storage on premises except:

(a) As expressly permitted in MMC Title 22C;

(b) Open storage does not include items customarily used in association with the permitted principal use of the property and suitable for outdoor use such as lawn furniture, play equipment, gardening equipment, and similar items;

(c) Open storage does not include construction materials or seasonal materials used for gardening that are stored in a manner to protect their utility and prevent deterioration and are reasonably expected to be used at the site within six months; and

(d) Open storage does not include materials screened from public view from the adjacent frontage street or streets.

(21) Premises containing rodent, insect and vermin harborage and/or infestation as determined by the county health officer. Infestations shall be promptly exterminated by methods that ensure the public's health, safety and welfare. Owners shall take preventative measures to protect buildings and premises from future infestations.

(22) Sidewalks, walkways, stairs, driveways, parking spaces and similar areas on private property that are accessible to the general public, containing hazardous conditions or violations of approved site or plot plans and barrier-free accessible parking requirements so as to endanger public health, safety or welfare.

(23) Any hazard tree, as substantiated by a certified arborist or other recognized tree professional, that threatens public health, safety or welfare.

(24) Vacant structures and premises thereof or vacant land which are not maintained in a clean, safe, secure and sanitary condition so as not to cause a blighting problem or adversely affect the public health.

(25) Automobile parking on a residential lot within a platted subdivision that are not on improved all-weather surfaces or an approved driveway if located in the front yard.

(26) Recreational vehicles, boats, and trailer parking on a residential lot within a platted subdivision that is not on an improved all-weather surface or an approved driveway if located in the front yard. Recreational vehicle, boat, or trailer parking in the side or rear yard setbacks is allowed so long as emergency responders may access all sides of a structure.

(27) Truck tractors, as defined in RCW 46.04.655, and semi-trailers, as defined in RCW 46.04.530, that are parked, kept or stored in residentially zoned areas, on residential property in other zones or on sites that have not been permitted, improved and approved for such use. This requirement shall not apply to the parking, keeping or storage of agricultural machinery on residential premises to be used for agricultural use allowed by MMC Title 22C or when equipment is used in conjunction with a permitted or allowed project.

(28) Heavy commercial equipment and vehicles used for commercial purposes exceeding 6,000 pounds that is not allowed to be parked, kept or stored in residentially zoned areas, on residential property in other zones, or on sites that have not been permitted, improved and approved for such use. This requirement shall not apply to the parking, keeping or storage of agricultural

machinery on residential premises to be used for agricultural use allowed by MMC Title 22C, or when equipment or vehicles are used in conjunction with an ongoing permitted or allowed project, or to personal property and equipment that is primarily used on site for improvements and maintenance of the property.

(29) Temporary or portable structures, such as portable storage tents, temporary canopies, or other similar structures, which are not removed within 72 hours, when located within the front yard. (Ord. 2763 § 2, 2009; Ord. 2046 § 1, 1995).

6.24.060 Forced abatement.

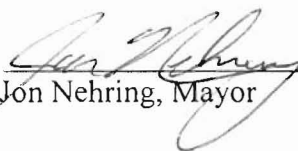
If, within 10 days after receiving a written notice and order in accordance with MMC Title 4, any person owning, occupying or controlling such premises who fails, neglects or refuses to correct said nuisance shall be found to be in violation of this chapter. The director may order said nuisance to be removed or abated per MMC Title 4 and all indebtedness to the city for removal shall be paid by the violator(s). Such cost and charges to be recovered by a civil action brought by the city against the violator pursuant to MMC Title 4. (Ord. 2046 § 1, 1995)

Section 2. 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 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 26th day of September, 2011.

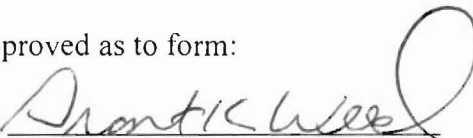
CITY OF MARYSVILLE

By 
Jon Nehring, Mayor

ATTEST:

By 
April O'Brien, Deputy City Clerk

Approved as to form:

By 
Grant Weed, City Attorney

Date of Publication: September 28, 2011

Effective Date (5 days after publication): October 3, 2011

CITY OF MARYSVILLE
Marysville, Washington
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, AMENDING PORTIONS OF MARYSVILLE MUNICIPAL CODE RELATING TO PENALTIES – AMENDING SUBSECTION 4.20.040 (3) (G); AMENDING SECTION 4.20.040 (4); AMENDING SECTION 5.02.140 ENTITLED “PENALTIES FOR VIOLATION”; AMENDING SECTION 5.26.020 ENTITLED “VIOLATION – PENALTY”; AMENDING SECTION 6.03.120 ENTITLED “ CLASSIFICATION OF CRIMES - PENALTIES”; AMENDING SECTION 6.76.120 ENTITLED “PENALTY FOR VIOLATION”; AMENDING SECTION 7.08.150 ENTITLED “PENALTY FOR VIOLATION”; AMENDING SECTION 9.04.109.3 ENTITLED “PENALTY PENALTIES – AMENDED INTERNATIONAL FIRE CODE SECTION 109.3”; AMENDING SECTION 9.04.109.4 ENTITLED “EXCESSIVE FALSE ALARMS, PENALTY IMPOSED”; AMENDING CHAPTER 12.36 ENTITLED “VEGETATION”; AMENDING CHAPTER 12.40 ENTITLED “CLEAN CONDITION OF PUBLIC RIGHT-OF-WAY ”; AMENDING SECTION 14.01.070 ENTITLED “CRIMINAL PENALTY”; AMENDING SECTION 22E.010.400 ENTITLED “PENALTIES AND ENFORCEMENT”; PROVIDING FOR SEVERABILITY; AND EFFECTIVE DATE.

WHEREAS, the City Council finds that it is in the public interest to update the City’s penalty regulations to be consistent with State Law; and,

WHEREAS, the City adopted MMC Chapter 4.02. entitled, “ENFORCEMENT PROCEDURE” and desires to update and revise the penalty provisions referenced in MMC 4.02.040 to have consistency in the Municipal Code.

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

Section 1. MMC 4.20.040 (3) (g) - is hereby amended to read as follows (All other provisions of 4.20.040 (3) remain in effect and unchanged):

(g) Issue civil infractions/third violation criminal:

(i) Except as otherwise provided herein, any violation of this code to which this chapter applies is deemed and declared to be a civil infraction. Each day of violation shall constitute a separate civil infraction.

(ii) Schedule: Any person found to have committed a civil infraction shall be assessed a fine as set forth in the following schedule:

		First Violation		Repeat-Second Violation *All third and subsequent violations of the MMC on this Schedule within 2 years are a misdemeanor	
Code Provisions		Noncommercial	Commercial	Noncommercial	Commercial
Title	Chapter				
4 Enforcement Code	4.02 Enforcement Procedures	\$300	\$500	\$600 <u>*Third violation, see subsection (3)(g)(iii) and 4.02.040 (4) of this section</u>	\$1,000 <u>*Third violation, see subsection (3)(g)(iii) and 4.02.040 (4) of this section</u>
5 Business Regulations and Licenses	5.02 Business Licenses	\$150	\$250	\$300	\$500 <u>*Third violation, see subsection (3)(g)(iii) and 4.02.040 (4) of this section</u>
6 Penal Code	6.24 Public Nuisances	\$150	\$250	\$300 <u>*Third violation, see subsection (3)(g)(iii) and 4.020.040 (4) of this section</u>	\$500 <u>*Third violation, see subsection (3)(g)(iii) and 4.020.040 (4) of this section</u>
	6.76 Noise Regulation	\$150	\$250	\$300 <u>*Third violation, see subsection (3)(g)(iii) and 4.02.040 (4) of this section</u>	\$500 <u>*Third violation, see subsection (3)(g)(iii) and 4.02.040 (4) of this section</u>
7 Health and Sanitation	7.04 Unsanitary Conditions— Nuisances	\$150	\$250	\$300	\$500
	7.08 Garbage Collection	\$150	\$250	\$300 <u>*Third violation, see subsection (3)(g)(iii) and 4.02.040 (4) of</u>	\$500 <u>*Third violation, see subsection (3)(g)(iii) and</u>

				<u>this section</u>	<u>4.02.040 (4) of this section</u>
9 Fire	9.04 Fire Code	\$150 <u>1000</u>	\$250 <u>1000</u>	\$300 <u>1000</u> <u>*Third violation, see subsection (3)(g)(iii) and 4.02.040 (4) of this section</u>	\$500 <u>1000</u> <u>*Third violation, see subsection (3)(g)(iii) and 4.02.040 (4) of this section</u>
12 Streets and Sidewalks	12.24 Sidewalks – Dangerous Conditions	\$150	\$250	\$300 <u>*Third violation, see subsection (3)(g)(iii) and 4.02.040 (4) of this section</u>	\$500 <u>*Third violation, see subsection (3)(g)(iii) and 4.02.040 (4) of this section</u>
	12.36 Vegetation	\$150	\$250	\$300 <u>*Third violation, see subsection (3)(g)(iii) and 4.02.040 (4) of this section</u>	\$500 <u>*Third violation, see subsection (3)(g)(iii) and 4.02.040 (4) of this section</u>
	12.40 Clean Condition of Public Right-of-Way	\$150	\$250	\$300 <u>*Third violation, see subsection (3)(g)(iii) and 4.02.040 (4) of this section</u>	\$500 <u>*Third violation, see subsection (3)(g)(iii) and 4.02.040 (4) of this section</u>
14 Water and Sewers	14.01 General Provisions	\$150	\$250	\$300 <u>*Third violation, see subsection (3)(g)(iii) and 4.02.040 (4) of this section</u>	\$500 <u>*Third violation, see subsection (3)(g)(iii) and 4.02.040 (4) of this section</u>
	14.15 Controlling Stormwater Runoff from New Development, Redevelopment, and Construction Sites	\$150	\$250	\$300 <u>*Third violation, see subsection (3)(g)(iii) and 4.02.040 (4) of this section</u>	\$500 <u>*Third violation, see subsection (3)(g)(iii) and 4.02.040 (4) of this section</u>
	14.16	\$150	\$250	\$300	\$500

	Operation and Maintenance of Public Storm Drainage Systems			<u>*Third violation, see subsection (3)(q)(iii) and 4.02.040 (4) of this section</u>	<u>*Third violation, see subsection (3)(q)(iii) and 4.02.040 (4) of this section</u>
	14.17 Operation and Maintenance of Private Storm Drainage Systems	\$150	\$250	\$300 <u>*Third violation, see subsection (3)(q)(iii) and 4.02.040 (4) of this section</u>	\$500 <u>*Third violation, see subsection (3)(q)(iii) and 4.02.040 (4) of this section</u>
	Plus any costs incurred for the maintenance of failed private stormwater systems.				
	14.21 Illicit Discharge Detection and Elimination (IDDE)	\$150	\$250	\$300 <u>*Third violation, see subsection (3)(q)(iii) and 4.02.040 (4) of this section</u>	\$500 <u>*Third violation, see subsection (3)(q)(iii) and 4.02.040 (4) of this section</u>
	Plus city's costs for abatement, sampling and/or monitoring.				
16 Building	16.04 Building Code	\$150	\$250	\$300	\$500
22 Unified Development Code	Title 22C Land Use Standards	\$150	\$250	\$300 <u>*Third violation, see subsection (3)(q)(iii) and 4.02.040 (4) of this section</u>	\$500 <u>*Third violation, see subsection (3)(q)(iii) and 4.02.040 (4) of this section</u>
	22D.050 Clearing, Grading, Filling and Erosion Control	\$250	\$350	\$500 <u>*Third violation, see subsection (3)(q)(iii) and 4.02.040 (4) of this section</u>	\$700 <u>*Third violation, see subsection (3)(q)(iii) and 4.02.040 (4) of this section</u>
	22E.010 Critical Areas Management	\$250	\$350	\$500 <u>*Third violation, see subsection (3)(q)(iii) and 4.02.040 (4) of</u>	\$700 <u>*Third violation, see subsection (3)(q)(iii) and</u>

				<u>this section</u>	<u>4.02.040 (4) of</u> <u>this section</u>
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(iii) Criminal violations for third and subsequent violations. All third and subsequent violations of all MMC Chapters listed in MMC 4.02.040(g)(ii) schedule above committed within 2 years are a misdemeanor crime punishable as set forth in MMC 4.20.040(4) below. . 6.24 MMC, Public Nuisances, will be pursuant to MMC 6.24.040 and Said crimes will be processed through Marysville municipal court as set forth in the Marysville Municipal Code, state law, the Washington State Court Rules Limited Jurisdiction Court Rules (CrRLJ) and local court rules for Marysville municipal court, and/or subsection (4) of this section; and/or

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

...

Section 2. MMC 4.20.040(4) - is hereby amended to read as follows (All other provisions of 4.20.040, except as amended in Section 1 above, remain in effect and unchanged):

(4) Violators Punishable by Criminal Fine and Imprisonment. As referenced in MMC 4.20.040(3)(g)(ii) and (iii) above relating to third violations, and as an alternative to any other remedy provided in this title or by law or other ordinance, any person willfully or knowingly violating any provision of this title or other titles, chapters or sections of the MMC, or amendments thereto, or any person aiding or abetting such violation is guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$1,000 and/or imprisonment for a term not to exceed 90 days. Each day such violation continues may be considered a separate offense.

Section 3. MMC 5.02.140 entitled "Penalties for violation" related to Business Licenses, is hereby amended to read as follows:

5.02.140 Penalties for violation.

(1) Violations of, or failure to comply with, any provision of this chapter, shall constitute a "Commercial violation " ~~civil infraction~~ and any person found to have violated any provision of this chapter is punishable by a ~~monetary penalty~~ as set forth in MMC 4.02.040(3)(g) of not more than \$100.00 for each such violation. Each day that a violation continues shall constitute a new and separate violation ~~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, and any premises upon which a business is operated in violation of this chapter is hereby declared to be a public nuisance.

(3) Any license 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.

(4) The city shall not enter into any contract or conduct any trade or commerce with any business which fails to comply with this chapter.

Section 4. MMC 5.26.020 entitled "Violation – Penalty " is hereby amended to read as follows:

5.26.020 Violation – Penalty.

Any violation of this chapter shall constitute a misdemeanor and shall be punishable by imprisonment in jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine. ~~by a fine not to exceed \$1,000 and/or imprisonment of up to six months.~~

Section 5. MMC 6.03.120 entitled " Classification of crimes - Penalties" is hereby amended to read as follows

6.03.120 Classification of crimes – Penalties.

All offenses defined by this title, or by any state statute which is incorporated herein by reference, constitute crimes and are classified as misdemeanors or gross misdemeanors as indicated by state law for the particular offense; provided, that where no express designation is made in state law or this code, such crimes shall be misdemeanors. Any party convicted of a of having committed a misdemeanor or gross misdemeanor shall be punished by a fine and/or imprisonment not to exceed the limits set forth for misdemeanors and gross misdemeanors in RCW 9A.02-20.021(2) and (3).

Gross misdemeanor. Every person convicted of a gross misdemeanor shall be punished by imprisonment in jail for a maximum term fixed by the court of not more than 364 days, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

Misdemeanor. Every person convicted of a misdemeanor shall be punished by imprisonment in jail for a maximum term fixed by the court of not more than ninety days,

or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

Section 6. MMC 6.76.120 entitled "Penalty for violation" is hereby amended to read as follows:

6.76.090 Penalty for violation.

(1) Motor Vehicle Offenses. All offenses defined in this chapter relating to the operation of motor vehicles, including specifically a violation of MMC 6.76.060(8), shall constitute traffic infractions, and a violator shall be civilly liable for a monetary penalty as specified in MMC 11.04.090.

(2) Other Noise Offenses. All other noise offenses defined in this chapter shall constitute a violation ~~misdemeanors~~, and a violation shall be punishable as set forth in MMC 4.02.040(3)(g) ~~by a fine not to exceed \$1,000.~~

(3) Separate Offenses. Each day for which a violation continues, or is repeated, shall constitute a separate offense.

(4) Supplement to Other Laws. The provisions of this chapter, and the penalties provided herein, shall be cumulative and nonexclusive, and shall not affect any other claim, cause of action, or remedy provided in the Marysville Municipal Code or by common law.

Section 7. MMC 7.08.150 entitled "Penalty for violation" is hereby amended to read as follows:

7.08.150 Penalty for violations.

Any person or corporation violating any of the provisions of this chapter shall be punished as set forth in MMC 4.02.040(3)(g) ~~guilty of a misdemeanor punishable by a fine of not to exceed \$100.00, or by imprisonment for not to exceed 30 days, or both.~~

Section 8. MMC 9.04.109.3 entitled "Penalty Penalties – Amended International Fire Code Section 109.3" is hereby amended to read as follows:

9.04.109.3 Violation penalties – Amended International Fire Code Section 109.3.

(1) Any person who violates any of the provisions of this code as adopted or fails to comply therewith, or who violates or fails to comply with any order made under this code, or who builds in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder,

and from which no appeal has been taken, or who fails to comply with such an order as affirmed or modified by the chief or by a court of competent jurisdiction within the time fixed in this chapter is severally, for each and every such violation and noncompliance respectively, shall be punished as set forth in MMC 4.02.040(3)(g).~~guilty of a misdemeanor, punishable by a fine of not more than \$1,000 or by imprisonment for not more than 90 days, or by both such fine and imprisonment.~~ The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each 10 days that prohibited conditions are maintained constitutes a separate offense.

(2) The application of the penalties herein described shall not be held to prevent the enforced removal of prohibited conditions.

Section 9. MMC 9.04.109.4 entitled "Excessive false alarms, penalty imposed" is hereby amended to read as follows:

9.04.109.4 Section 109.4 – Excessive false alarms, penalty imposed.

No more than three false alarms from any location shall be permitted within any calendar year. The owner or operator of any location from which more than three false alarms are sent within any calendar year shall be shall be punished as set forth in MMC 4.02.040(3)(g).~~subject to the imposition of a criminal penalty pursuant to MMC 9.04.109.3.~~

Section 10. MMC Chapter 12.36. Entitled "Vegetation" is amended to read as follows:

**Chapter 12.36
VEGETATION**

Sections:

- 12.36.010 Obstructing right-of-way visibility – Public nuisance/Penalty
- ~~12.36.020 Abatement Order.~~
- ~~12.36.030 Abatement City action.~~

12.36.010 Obstructing right-of-way visibility – Public nuisance – Penalty.

All vegetation which is permitted to grow within 20 feet of the right-of-way line of any public street or alley within the city of Marysville is a public nuisance if it is determined by the chief of police to be a safety hazard because it obstructs visibility on the traveled portion of the right-of-way, or because it obstructs visibility of traffic-control signs located thereon. Any person or corporation who violates this section shall be deemed to have

maintained a public nuisance pursuant to MMC Ch 6.24; and any person or corporation violating any of the provisions of this chapter shall be punished as set forth in MMC 4.02.040.

~~12.36.020 Abatement — Order.~~

~~Upon determination by the chief of police that vegetation constitutes a public nuisance pursuant to MMC 12.36.010, the chief of police shall cause an abatement order to be mailed to the owner of the subject property, as shown on the current tax rolls of the Snohomish County treasurer. Further, the chief of police shall cause a copy of said abatement order to be served upon the occupant of the subject property, or if there is no occupant, said abatement order shall be posted on the subject property. The abatement order shall define the public nuisance and shall require the abatement thereof in not less than 30 days from the date of said order. It shall state that failure to comply with said order will result in abatement of the public nuisance by the city, and liability for the costs of such abatement, plus a 10 percent surcharge, shall be borne by the owner of the subject property. (Ord. 999 § 2, 1978).~~

~~12.36.030 Abatement — City action.~~

~~If a public nuisance is not abated in compliance with an abatement order, as provided in MMC 12.36.020, the chief of police may cause such nuisance to be removed or abated, and the owner of the subject property shall become indebted to the city for the costs incurred by the city in the removal of such nuisance, plus a 10 percent surcharge. Further, the city may file a lien against the subject property in the amount of such costs and surcharge. (Ord. 999 § 3, 1978).~~

Section 11. MMC Chapter 12.40 entitled "Clean Condition of Public Right-of-Way" is hereby amended to read as follows:

**Chapter 12.40
CLEAN CONDITION OF
PUBLIC RIGHT-OF-WAY**

Sections:

12.40.010 Duty to maintain clean right-of-way - Penalty.

~~12.40.020 — Public nuisance — Abatement.~~

~~12.40.030 — Criminal penalty.~~

12.40.010 Duty to maintain clean right-of-way - Penalty.

No person or party shall willfully or negligently cause or allow any dirt, mud, rocks, vegetation, grease, oil or other foreign material or substance to be deposited, stored,

abandoned, discharged or spread on any public street, alley, sidewalk or other public right-of-way in the city. Any person or corporation who violates this section shall be deemed to have maintained a public nuisance pursuant to MMC Ch 6.24; and any person or corporation violating any of the provisions of this chapter shall be punished as set forth in MMC 4.02.040.

~~12.40.020 Public nuisance — Abatement.~~

~~Any act or omission defined in MMC 12.40.010 shall constitute a public nuisance. Upon notice by a city official to the party causing or allowing said public nuisance, said party shall abate the same to the satisfaction of the city within 24 hours of being so notified. If the party fails to abate the nuisance as required, the city may proceed to clean the public right of way with its own labor and equipment, and the direct costs thereof, plus a 25 percent surcharge, shall be charged to the responsible party. Said party shall pay the same to the city within 10 days of receiving an invoice.~~

~~12.40.030 Criminal penalty.~~

~~Every person or party who shall commit or maintain a public nuisance as defined in this chapter, or who shall willfully omit or refuse to perform any legal duty relating to the removal of such nuisance, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed \$500.00.~~

Section 12. MMC 14.01.070 entitled "Criminal penalty" is hereby amended to be entitled "Penalty" and to read as follows:

~~14.01.070 Criminal penalties.~~

It shall constitute a misdemeanor a violation of this chapter for any person or party to commit, authorize, solicit, aid, abet or attempt the following unlawful acts:

- (1) Divert or cause to be diverted utility services by any means whatsoever;
- (2) Make or cause to be made any connection or reconnection with the city utilities without the authorization or consent of the city;
- (3) Discharge any substance prohibited by MMC 14.05.020, including effluent from private water facilities, into the city's sewer system without the authorization or consent of the city;
- (4) Prevent any utility meter or other device used in determining the charge for utility services from accurately performing its measuring function by tampering or by any other means;
- (5) Tamper with any property owned or used by the city to provide utility services;

(6) Use or receive the direct benefit of all or a portion of the utility service with knowledge of, or reason to believe that, the diversion, tampering or unauthorized connection existed at the time of the use or that the use or receipt was without the authorization or consent of the city.

~~Said criminal acts shall be punishable by a fine not to exceed \$1,000. Violations of 1-6 above and violations of this chapter shall be punished as set forth in MMC 4.02.040(3)(g).~~ Each day that a violation continues shall constitute a separate offense. The ~~criminal~~ penalties provided in this section shall be construed as being cumulative with civil damages provided in MMC 14.01.080.

Section 13. MMC 22E.010.400 entitled "Penalties and enforcement" is hereby amended to read as follows:

22E.010.400 Penalties and enforcement.

Penalty and enforcement provided in this section shall not be deemed exclusive, and the city may pursue any remedy or relief it deems appropriate.

(1) Any person, firm, corporation, or association or any agent thereof who violates any of the provisions of this chapter shall be punishable as set forth in MMC 4.02.040(3)(g) ~~be guilty of a misdemeanor punishable by a fine not to exceed \$1,000.~~ It shall be a separate offense for each and every day or portion thereof during which any violation of any provisions of this chapter is committed.

(2) Any person, firm, corporation, or association or any agent thereof who violates any of the provisions of this chapter shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to an equivalent or improved condition prior to the violation occurring. If an equivalent condition cannot be provided, the violator shall be subject to a fine in an amount equal to the value of the damage to the environmentally critical area, determined using best available methods of calculating the value of vegetation, land, and water resources.

(3) Restoration shall include, but not be limited to, the replacement of all improperly removed groundcover with species similar to those which were removed or other approved species such that the biological and habitat values will be replaced, improper fill removed, and slope stabilized. Studies by the qualified experts shall be submitted to determine the conditions which were likely to exist on the lot prior to the illegal alteration.

(4) Restoration shall also include installation and maintenance of interim and emergency erosion control measures until such time as the restored groundcover

and vegetation reach sufficient maturation to function in compliance with the performance standards adopted by the city.

(5) The city shall stop work on any existing permits and halt the issuance of any or all future permits or approvals for any activity which violates the provisions of this chapter until the property is fully restored in compliance with this chapter and all penalties are paid.

(6) Notwithstanding the other provisions provided in this chapter, anything done contrary to the provisions of this chapter or the failure to comply with the provisions of this chapter shall be and the same is hereby declared to be a public nuisance.

The city is authorized to apply to any court of competent jurisdiction, for any such court, upon hearing and for cause shown, may grant a preliminary, temporary or permanent injunction restraining any person, firm, and/or corporation from violating any of the provisions of this chapter and compelling compliance with the provisions thereof. The violator shall comply with the injunction and pay all cost incurred by the city in seeking the injunction.

Section 14. 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 15. 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 _____, 2014.

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)