

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: January 13, 2013

AGENDA ITEM: Repeal Chapter 7.04 MMC <i>Unsanitary Conditions – Nuisances</i> and amend MMC 6.24.050 adding subsections (30) through (34)	AGENDA SECTION: New Business	
PREPARED BY: Chris Holland, Planning Manager	APPROVED BY:	
ATTACHMENT: Adopting Ordinance		
	MAYOR	CAO
BUDGET CODE:	AMOUNT:	

DESCRIPTION:

Chapter 7.04 MMC *Unsanitary Conditions – Nuisances*, was adopted in 1894. Many of the provisions of this chapter are outdated and inconsistent with other portions of the penal, nuisance and animal code. Therefore, staff is proposing to repeal Chapter 7.04 MMC *Unsanitary Conditions – Nuisances*, in its entirety and amend MMC 6.24.050 *Type of nuisances*, adding subsections (30) through (34). The additional public nuisances are taken from Chapter 7.04 MMC, which is proposed to be repealed.

RECOMMENDED ACTION:

Approve the Ordinance repealing Chapter 7.04 *Unsanitary Conditions – Nuisances*, in its entirety, and amend Marysville Municipal Code 6.24.050 adding subsections (30) through (34).

COUNCIL ACTION:

CITY OF MARYSVILLE
Marysville, Washington
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, REPEALING MARYSVILLE MUNICIPAL CODE (MMC) CHAPTER 7.04 ENTITLED "UNSANITARY CONDITION-NUISANCES;" AND AMENDING MMC SECTION 6.24.050 ENTITLED "TYPES OF NUISANCES" ADDING SUBSECTIONS (30) THROUGH (34); PROVIDING FOR SEVERABILITY; AND EFFECTIVE DATE.

WHEREAS, the City Council finds that it is in the public interest to update the Municipal code to repeal outdated code provisions be consistent with other provisions of the Municipal Code and State Law.

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

Section 1. MMC Chapter 7.04 entitled "UNSANITARY CONDITIONS – NUISANCES " is hereby REPEALED in its entirety:

~~**Chapter 7.04**~~
~~**UNSANITARY CONDITIONS – NUISANCES**~~

Sections:

- ~~7.04.010 Offensive and unsanitary premises for animals.~~
- ~~7.04.020 Accumulation of manure – Penalty.~~
- ~~7.04.030 Offensive privy, pool, yard – Penalty.~~
- ~~7.04.040 Obstructing waterways so as to cause stagnation – Penalty.~~
- ~~7.04.050 Allowing stagnant water to stand on premises – Penalty.~~
- ~~7.04.060 Depositing filth and dead animals within city limits – Penalty.~~
- ~~7.04.070 Order of abatement on conviction.~~
- ~~7.04.080 Failure to abate on order – Penalty.~~
- ~~7.04.090 Procedure for abatement – Costs as lien.~~
- ~~7.04.100 Service of notice to abate – Penalty for failure.~~
- ~~7.04.110 Person defined.~~
- ~~7.04.120 Him defined.~~

~~**7.04.010 Offensive and unsanitary premises for animals.**~~

~~All pens, stables, barns, kennels, yards and other premises where animals are confined or kept for private or commercial purposes shall be maintained in a clean condition so as to avoid unhealthy conditions for the animals or accumulation of animal waste; provided, however, said requirements shall not pertain to customary~~

farm or agricultural practices. Any person who owns, occupies or has charge of premises which violate this section shall be deemed guilty of maintaining a nuisance and shall be punished by a fine not to exceed \$300.00 or by imprisonment not to exceed three months, or by both such fine and imprisonment. (Ord. 1828, 1991; Ord. 65 § 1, 1894).

7.04.020 Accumulation of manure – Penalty.

Whoever shall suffer or permit to accumulate on any premises owned or occupied by him or under his control, any manure in such manner as to emit noxious, disagreeable or offensive odors to the annoyances or detriment of any family or person, or shall place the contents of any privy vault in or upon any public street, alley or common, shall be deemed guilty of maintaining a nuisance; and on conviction, shall be punished by a fine not less than \$5.00 nor more than \$25.00, or by imprisonment for a period not exceeding 10 days. (Ord. 65 § 2, 1894).

~~7.04.030 Offensive privy, pool, yard—Penalty.~~

~~Whoever shall suffer or permit any cellar, vault, drain, pool, privy, sewer, yard, ground or premises, owned or occupied by him or under his control, to become, from any cause, nauseous, foul or offensive, or injurious to the public health, or unpleasant or disagreeable to adjacent residents or persons, shall be deemed guilty of permitting or maintaining a nuisance and, on conviction, shall be punished by a fine not less than \$5.00 nor more than \$25.00, or by imprisonment for a period not exceeding 10 days. (Ord. 65 § 3, 1894).~~

~~7.04.040 Obstructing waterways so as to cause stagnation—Penalty.~~

~~Whoever shall place, erect or maintain any obstructions in or across any watercourse, stream, brook or ravine, or other place, so as to cause water to stand or stagnate therein, or shall place or deposit therein any noxious or offensive matter or any straw, hay, manure or dead animal, or other particle or substance, or whoever shall by any means dam or obstruct any sewer drain or gutter shall be deemed guilty of creating and maintaining a nuisance and, upon conviction, shall be punished by a fine not less than \$5.00 nor more than \$25.00, or by imprisonment for a period not exceeding 10 days. (Ord. 65 § 4, 1894).~~

~~7.04.050 Allowing stagnant water to stand on premises—Penalty.~~

~~Whoever shall suffer or permit any water to stand upon any premises owned, occupied or controlled by him, so that the same shall become stagnant, foul, offensive or injurious to the public health, shall be deemed guilty of maintaining a nuisance and, upon conviction, shall be punished by a fine not less than \$5.00 nor more than \$25.00, or by imprisonment for a period of not more than 10 days. (Ord. 65 § 5, 1894).~~

~~7.04.060 Depositing filth and dead animals within city limits — Penalty.~~

~~Whoever shall deposit or place in or upon any premises, public or private, enclosed or common, within the city, any vegetable or animal matter or filth of a character likely to affect the public health, or to produce offensive odors, and whoever shall place or deposit in or upon any such premises the carcass of any dead animal to be or remain unburied within the city limits for more than 24 hours after its death, shall be deemed guilty of creating and maintaining a nuisance and, upon conviction, shall be punished by a fine not less than \$5.00 nor more than \$25.00, or by imprisonment not exceeding 10 days. (Ord. 65 § 6, 1894).~~

~~7.04.070 Order of abatement on conviction.~~

~~When judgment shall be rendered against any person creating or maintaining a nuisance, it shall be the duty of the court, before whom such conviction shall be had, to order the defendant in such suit to forthwith abate and remove such nuisances, and if the same be not done by such defendant within 24 hours, the same shall be abated and removed under the direction of the chief of police. Said order shall be entered upon the docket of the court and be made part of the judgment in the cause. (Ord. 65 § 9, 1894).~~

~~7.04.080 Failure to abate on order — Penalty.~~

~~Any person, having been found guilty of creating or maintaining any nuisance, who shall neglect or fail to abate and remove such nuisance within 24 hours next after his conviction thereof, shall be subject to a fine of not less than \$5.00 nor more than \$25.00, or to imprisonment for a period not exceeding 10 days. (Ord. 65 § 10, 1894).~~

~~7.04.090 Procedure for abatement — Costs as lien.~~

~~The chief of police is authorized, whenever nuisances shall exist within the city, to notify the person owning, controlling, occupying or in charge of the premises upon which the nuisance exists, to abate the same within two days; and if the same is not abated within said time then it shall be the duty of the chief of police to abate the same, and the expenses thereof shall be assessed against the said property and shall become a lien thereon, and the owner, occupier or person in control, or who has charge of said property, shall become liable to the city for the amount thereof, and said lien may be enforced and foreclosed by an action brought in the name of the city of Marysville, by the city attorney, and the city attorney shall receive therefor a fee of \$25.00 which shall also become a lien upon the property. (Ord. 65 § 11, 1894).~~

~~7.04.100 Service of notice to abate — Penalty for failure.~~

~~It shall be the duty of the chief of police, whenever he shall have notice of the existence of a nuisance in the city, to notify the owner or person who has control of,~~

or who occupies the premises upon which the nuisance is situated, to vacate and abate the same, and any person who shall violate the terms of any notice of service upon him in pursuance herein, shall upon conviction be punished by a fine not less than five nor more than \$25.00, or by imprisonment for a period not exceeding 10 days. (Ord. 65 § 12, 1894).

~~7.04.110 Person defined:~~

~~Whenever the word "person" occurs or is used in this chapter, it applies to a corporation, company, or person as the case may be. (Ord. 65 § 13, 1894).~~

~~7.04.120 Him defined:~~

~~Whenever "him" is used in this chapter, it means him, her, or them, as the case may be. (Ord. 65 § 14, 1894).~~

Section 2. MMC 6.24.050 entitled "Types of nuisances" is hereby amended to add subsections (30) through (34) to read as follows (All other provisions of 6.24.050 remain in effect and unchanged):

(30) Whoever shall suffer or permit to accumulate on any premises owned or occupied by him or under his control, any feces in such manner as to emit noxious, disagreeable or offensive odors to the annoyances or detriment of any family or person, or shall place the contents of any privy vault in or upon any public street, alley or common, shall be deemed guilty of maintaining a public nuisance.

(31) Whoever shall suffer or permit any cellar, vault, drain, pool, privy, sewer, yard, ground or premises, owned or occupied by him or under his control, to become, from any cause, nauseous, foul or offensive, or injurious to the public health, or unpleasant or disagreeable to adjacent residents or persons, shall be deemed guilty of permitting or maintaining a public nuisance.

(32) Whoever shall suffer or permit any water to stand upon any premises owned, occupied or controlled by him, so that the same shall become stagnant, foul, offensive, or injurious to the public health, shall be deemed guilty of maintaining a public nuisance.

(33) All pens, stables, barns, kennels, yards and other premises where animals are confined or kept for private or commercial purposes shall be maintained in a clean condition so as to avoid unhealthy conditions for the animals or accumulation of animal waste; provided, however, said requirements shall not pertain to customary farm or agricultural practices. Any person who owns, occupies or has charge of premises which violate this section shall be deemed guilty of maintaining a public nuisance.

(34) Whoever shall deposit or place in or upon any premises, public or private, enclosed or common, within the city, any vegetable or animal matter or filth of a character likely to affect the public health, or to produce offensive odors, and whoever shall place or deposit in or upon any such premises the carcass of any dead animal to be or remain unburied within the city limits for more than 24 hours after its death, shall be deemed guilty of creating and maintaining a public nuisance.

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 _____, 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)