

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: March 17, 2014

AGENDA ITEM: PA 13-034 Proposed code amendments to the “Floodplain Management” code	AGENDA SECTION:	
PREPARED BY: Cheryl Dungan, Senior Planner	AGENDA NUMBER:	
ATTACHMENTS: 1. Memo to PC 01/13/14 2. PC Minutes 01/28/14 & 02/11/14 3. Draft Ordinance	APPROVED BY:	
	MAYOR	CAO
BUDGET CODE:	AMOUNT:	

The draft amendments address language updates suggested by the Department of Ecology (DOE) to allow the City to remain in compliance with the “National Floodplain Insurance Program” (NFIP). Every 5 years city staff meets with DOE to review the City’s compliance with the floodplain management Ordinance, the proposed amendments are a result of that meeting. The planning commission held a workshop and public hearing on the proposed changes and are recommending the Council adopt the amendments as proposed.

RECOMMENDED ACTION: Planning Staff recommends the Council approve the Planning Commission’s recommendation to adopt the revisions to MMC Section(s) 22E.020.150(1)(b)(ii); 22A.020.200; and add a new section 22E.020.210.
COUNCIL ACTION:



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

MEMORANDUM

DATE: January 23, 2014
TO: Planning Commission
FROM: Cheryl Dungan, Senior Planner
RE: Proposed amendments to City's Floodplain Ordinance

Background:

Every 5 years city staff meets with Department of Ecology (DOE) staff to go over the City's compliance with the floodplain management ordinance. At the meeting DOE often suggests updates to the City's existing Floodplain Ordinance to allow the City to remain in compliance with the "National Floodplain Insurance Program" (NFIP). Below are recommended code changes based on a meeting City staff had with DOE and NMFS in late December to bring the ordinance into compliance with NFIP.

Proposed Code Amendment:

Article II. General Provisions

Chapter 22E.020 FLOODPLAIN MANAGEMENT

Sections:

Article I. Purpose

[22E.020.010](#) Statement of purpose.

Article II. General Provisions

[22E.020.020](#) Lands to which this chapter applies.

[22E.020.030](#) Basis for establishing the areas of special flood hazard.

[22E.020.040](#) Penalties for noncompliance.

[22E.020.050](#) Abrogation and greater restrictions.

[22E.020.060](#) Interpretation.

[22E.020.070](#) Warning and disclaimer of liability.

Article III. Administration

[22E.020.080](#) Establishment of development permit.

[22E.020.090](#) Designation of the building official.

[22E.020.100](#) Duties and responsibilities of building official.

Article IV. Variance Procedure

[22E.020.110](#) Appeal board.

[22E.020.120](#) Conditions for variances.

Article V. Provisions for Flood Hazard Protection

[22E.020.130](#) General standards.

[22E.020.140](#) Review of building permits.

[22E.020.150](#) Specific standards.

[22E.020.160](#) Encroachments.

[22E.020.170](#) Manufactured homes.

[22E.020.180](#) Recreational vehicles.

[22E.020.190](#) Floodways.

[22E.020.200](#) Critical facility.

[22E.020.210](#) Severability

22E.020.030 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled, "The Flood Insurance Study for ~~the City of Marysville~~ Snohomish County and Incorporated Areas" dated September 16, 2005, as amended, with accompanying flood insurance rate maps (FIRM), as amended, is adopted by reference and declared to be a part of this chapter. The flood insurance study is on file at the Marysville Community Development Department, 80 Columbia Avenue, Marysville, Washington. The best available information for flood hazard area identification as outlined in MMC [22E.020.100\(2\)](#) shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under MMC [22E.020.100\(2\)](#).

22E.020.150 Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in MMC [22E.020.030](#), Basis for establishing the areas of special flood hazard, or MMC [22E.020.100\(2\)](#), Use of Other Base Flood Data, the following provisions are required:

(1) Construction or reconstruction of residential structures is prohibited within designated floodways except for:

(a) Repairs, reconstruction or improvements to a structure which do not increase the ground floor area; and

(b) Repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either:

(i) Before the repair, reconstruction or improvement is started; or

(ii) If the structure has been damaged and is being restored, before the damage occurred.

~~Work done on structures to comply with existing health, sanitary or safety codes or to structures identified as historic places shall not be included in the 50 percent determination. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or to structures identified as historic places shall not be included in the 50 percent.~~

(2) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above the base flood elevation.

(3) Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(4) New construction and substantial improvement of any nonresidential structure shall either have the lowest floor, including basement, elevated to or above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(a) Be floodproofed so that for up to one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the building official as set forth in MMC [22E.020.100\(3\)\(b\)](#).

(i) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (6) of this section;

(ii) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one foot below).

(5) Encroachments, including fill, new construction, substantial improvements and other developments, shall be prohibited in any floodway unless a technical evaluation demonstrates that the encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

(6) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvres or other coverings or devices; provided, that they permit the automatic entry and exit of flood waters. (Ord. 2852 § 10 (Exh. A), 2011).

[22E.020.210 Severability.](#)

[If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.](#)

and

Revise the definition of “Substantial improvement (floodplain management)” as follows (all other definitions under 22A.020.200 “S” definitions shall remain as written.

22A.020.200 “S” definitions.

"Substantial improvement (floodplain management)" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) Before the improvement or repair is started; or
- (2) If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (1) Any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places, provided, that the alteration will not preclude the structure's continued designation as a "historic structure."

PLANNING COMMISSION



MINUTES

January 28, 2014

7:00 p.m.

City Hall

CALL TO ORDER

Chair Leifer called the January 28, 2014 meeting to order at 7:00 p.m.

Marysville

Chairman: Steve Leifer

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

Staff: Senior Planner Cheryl Dungan

Absent: Marvetta Toler

APPROVAL OF MINUTES

January 14, 2014 Minutes

Motion made by Commissioner Lebo, seconded by Commissioner Andes, to approve the January 14, 2014 Meeting Minutes as presented. **Motion** passed unanimously (6-0).

AUDIENCE PARTICIPATION

NEW BUSINESS

- FEMA Floodplain code revisions

Senior Planner Dungan explained that every few years the City gets a visit from someone from the Department of Ecology to show that we are complying with the biological opinion for floodplains. This year they were also accompanied by someone from National Marine Fisheries Service. Basically, the City demonstrated compliance with most requirements, but they did have some suggestions and minor revisions for the Floodplain Ordinance to keep the City in compliance with the National Flood Insurance Program.

Motion made by Commissioner Hoen, seconded by Commissioner Richards, to accept the revisions as presented and to set a hearing date for February 11. **Motion** passed unanimously (6-0).

- Phase 2 SEPA update

Senior Planner Dungan explained that the state legislature in 2012 directed the Department of Ecology to rewrite and streamline the SEPA. This is Phase 2, which basically clarifies some confusing parts of SEPA. It also adds the choice for the local jurisdiction on whether a National Environmental Policy Act documentation can be adopted into your SEPA. This will be a case-by-case decision to adopt the NEPA decision if one has been issued. They are also updating the utility exemption for water pump size to align with industry standards. They are allowing smaller solar energy projects to be exempt. She commented that these all seem to be reasonable amendments. The State will issue its final rulemaking decision in April of 2014. Once that is done staff will bring forward code changes to reflect what the State has adopted.

Commissioner Hoen asked what it would mean if you agree with this or if you had suggested changes. Senior Planner Dungan said the State is taking public comments so it would go through the Department of Ecology.

Commissioner Hoen asked if the City of Marysville has to adopt this. Ms. Dungan replied that the City doesn't have to adopt all of it, but the rules state that even if we don't adopt it the rules still apply.

Chair Leifer referred to page 6 under Planned Actions. He asked who the costs would be recovered from. Ms. Dungan commented that she wasn't sure because we've never used that provision. Chair Leifer suggested clarifying this. Ms. Dungan said she would look into that and provide an answer back to the ESC.

Senior Planner Dungan stated that this also addresses cultural resources which hadn't been included previously. It allows jurisdictions to adopt a draft Inadvertent Discovery Plan. The City now has a handout they can give to people to show them what to do if they come across bones, artifacts, or historical things.

CITY COUNCIL AGENDA ITEMS AND MINUTES

Chair Leifer commented that the local news article reporting on the marijuana issue reported that the vote was 4-2 when it was actually unanimous (6-0) for the ban as was stated in the minutes. He wondered if the paper ought to be contacted so they could correct this. Senior Planner Dungan suggested that Chair Leifer make that contact on behalf of the Planning Commission. There was consensus by the Planning Commission to have Chair Leifer contact the paper.

ADJOURNMENT

Motion made by Commissioner Richards, seconded by Commissioner Smith, to adjourn the meeting at 7:22 p.m. **Motion** passed unanimously (6-0).

NEXT MEETING:

February 11, 2014



Laurie Higdahl, Recording Secretary

PLANNING
COMMISSION



MINUTES

February 11, 2014

7:00 p.m.

City Hall

CALL TO ORDER

Chair Leifer called the February 11, 2014 meeting to order at 7:00 p.m. noting the absence of Steve Lebo and Marvetta Toler. It was noted that Steve Lebo had notified staff and the commission that he would not be able to attend due to work and that his absence was excused. No one had heard from Marvetta Toler, but Chair Leifer said he had tried to get in touch with her. Cheryl Dungan indicated she would look into this further.

Marysville

Chairman: Steve Leifer
Commissioners: Roger Hoen, Jerry Andes, Kay Smith, Kelly Richards,
Staff: Senior Planner Cheryl Dungan
Absent: Steven Lebo, Marvetta Toler

APPROVAL OF MINUTES

January 28, 2014

Motion made by Commissioner Smith, seconded by Commissioner Richards, to approve the January 28, 2014 Meeting Minutes. **Motion** passed unanimously (5-0).

AUDIENCE PARTICIPATION

None

OLD BUSINESS

FEMA Floodplain Code Revisions

Chair Leifer opened the public hearing at 7:03 and noted that there was no one in the audience.

Senior Planner Dungan stated that the revisions were the same changes that were presented at the workshop. Staff recommended that the Planning Commission make a recommendation of approval to the City Council.

Seeing no public comments the hearing was closed at 7:04 p.m.

Motion made by Commissioner Hoen, seconded by Commissioner Andes, to forward this to the City Council with a recommendation for approval. **Motion** passed unanimously (5-0).

CITY COUNCIL AGENDA ITEMS AND MINUTES

Senior Planner Dungan announced that the City Council was sending the marijuana issue back to the Planning Commission to review potential zoning options in the event that this is ever mandated. Staff will be bringing something back to a meeting soon. General discussion regarding this topic followed.

ADJOURNMENT

Motion made by Commissioner Richards, seconded by Commissioner Andes, to adjourn the meeting at 7:13 p.m. **Motion** passed unanimously.

NEXT MEETING:

February 25, 2014



Laurie Hugdahl, Recording Secretary

CITY OF MARYSVILLE
Marysville, Washington
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON RELATED TO FLOODPLAIN MANAGEMENT REQUIREMENTS, AMENDING SECTION(S) 22E.020.030 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD; 22E.020.150(1)(b)(ii) SPECIFIC STANDARDS; 22A.020.200 "S" DEFINITIONS - SUBSTANTIAL IMPROVEMENT (FLOODPLAIN MANAGEMENT); AND ADDING A NEW SECTION 22E.020.210 SEVERABILITY

WHEREAS, the City Council of the City of Marysville does find that from time to time it is necessary and appropriate to review and revise provisions of the City's Uniform Development Code (Title 22 MMC); and

WHEREAS, following a comprehensive review of the above-referenced City codes by City staff, the Marysville Planning Commission held public workshop on January 28, 2014; and

WHEREAS, after providing notice to the public as required by law, on February 11, 2014 the Marysville Planning Commission held a public hearing on proposed changes to the Uniform Development Code and received public input and comment on said proposed revisions; and

WHEREAS, the City has submitted the proposed development regulation revisions to the Washington State Department of Community, Trade, and Economic Development as required by RCW 36.70A.106; and

WHEREAS, the City has complied with the requirements of the State Environmental Policy Act, Ch. 43.21C RCW, (SEPA) by adopting a determination of non-significance for the adoption of the proposed revisions to the City's development regulations;

WHEREAS, no substantive comments were received from the state agencies, the general public, affected Tribes, or the Department of Ecology; and

WHEREAS, at a workshop on March 3, 2014 and a public meeting on March 10, 2014 the Marysville City Council reviewed and considered the amendments to the Uniform Development Code proposed by the Maryville Planning Commission;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON DO ORDAIN AS FOLLOWS:

Article II. General Provisions

Chapter 22E.020 FLOODPLAIN MANAGEMENT

Sections:

Article I. Purpose

22E.020.010 Statement of purpose.

Article II. General Provisions

22E.020.020 Lands to which this chapter applies.

22E.020.030 Basis for establishing the areas of special flood hazard.

22E.020.040 Penalties for noncompliance.

22E.020.050 Abrogation and greater restrictions.

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22E.020.080 Establishment of development permit.

22E.020.090 Designation of the building official.

22E.020.100 Duties and responsibilities of building official.

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22E.020.110 Appeal board.

22E.020.120 Conditions for variances.

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22E.020.130 General standards.

22E.020.140 Review of building permits.

22E.020.150 Specific standards.

22E.020.160 Encroachments.

22E.020.170 Manufactured homes.

22E.020.180 Recreational vehicles.

22E.020.190 Floodways.

22E.020.200 Critical facility.

22E.020.210 Severability

22E.020.030 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled, “The Flood Insurance Study for the City of Marysville Snohomish County and Incorporated Areas” dated September 16, 2005, as amended, with accompanying flood insurance rate maps (FIRM), as amended, is adopted by reference and declared to be a part of this chapter. The flood insurance study is on file at the Marysville Community Development

ORDINANCE - 2

FLOODPLAIN MANAGEMENT ORD

Department, 80 Columbia Avenue, Marysville, Washington. The best available information for flood hazard area identification as outlined in MMC 22E.020.100(2) shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under MMC 22E.020.100(2).

22E.020.150 Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in MMC 22E.020.030, Basis for establishing the areas of special flood hazard, or MMC 22E.020.100(2), Use of Other Base Flood Data, the following provisions are required:

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(2) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above the base flood elevation.

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(4) New construction and substantial improvement of any nonresidential structure shall either have the lowest floor, including basement, elevated to or above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(a) Be floodproofed so that for up to one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the building official as set forth in MMC 22E.020.100(3)(b).

(i) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (6) of this section;

(ii) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one foot below).

(5) Encroachments, including fill, new construction, substantial improvements and other developments, shall be prohibited in any floodway unless a technical evaluation demonstrates that the encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

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22E.020.210 Severability.

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

and

Revise the definition of “Substantial improvement (floodplain management)” as follows (all other definitions under 22A.020.200 “S” definitions shall remain as written.

22A.020.200 “S” definitions.

“Substantial improvement (floodplain management)” means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

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- (2) If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

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ORDINANCE - 4

FLOODPLAIN MANAGEMENT ORD

(2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places, provided, that the alteration will not preclude the structure's continued designation as a "historic structure."

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2014

CITY OF MARYSVILLE

By: _____
JON NEHRING, MAYOR

Attest:

By: _____
CITY CLERK

Approved as to form:

By: _____
GRANT K. WEED, CITY ATTORNEY

Date of Publication: _____

Effective Date: _____
(5 days after publication)