

**CITY OF MARYSVILLE**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: January 12, 2015**

<b>AGENDA ITEM:</b> Ordinance adopting amendments to Marysville Municipal Code Chapter 22E.030 <i>State Environmental Policy Act</i> , related to Senate Bill 6406	<b>AGENDA SECTION:</b> New Business	
<b>PREPARED BY:</b> Cheryl Dungan, Senior Planner	<b>APPROVED BY:</b>	
<b>ATTACHMENTS:</b> 1. PC Recommendation, including: <ul style="list-style-type: none"> <li>• Exhibit A - PC Recommended Ordinance</li> <li>• Exhibit B - PC Public Hearing Minutes, 11/25/14</li> <li>• Exhibit C - PC Workshop Minutes, 9/23/14</li> </ul> 2. Memo to PC dated August 25, 2014 3. Adopting Ordinance	<b>MAYOR</b>	<b>CAO</b>
	<b>BUDGET CODE:</b>	
<b>BUDGET CODE:</b>		<b>AMOUNT:</b>

**DESCRIPTION:**

The Washington State Legislature adopted SB 6406 during the 2012 legislative session that made changes to the current SEPA thresholds. Phase 1 of the changes took effect on January 31, 2013, which the City adopted by Ordinance 2939 on November 12, 2013. Phase 2 of the changes took effect in June of 2014. The Draft Ordinance addresses minor changes in wording/rephrasing of the SEPA legislation to make the language more concise and easier to understand. The majority of changes in the Phase 2 SEPA revisions require no action by the City since the City adopted by reference Chapter 43.21C RCW ‘SEPA Procedures’ and Chapter 197-11 WAC ‘SEPA Rules’ as adopted or otherwise amended.

The proposed amendments bring the City of Marysville’s SEPA regulations into conformance with newly adopted SEPA language.

<b>RECOMMENDED ACTION:</b> Affirm the Planning Commission’s Recommendation adopting amendments to Marysville Municipal Code Chapter 22E.030 <i>State Environmental Policy Act</i> , related to Senate Bill 6406.
<b>COUNCIL ACTION:</b>



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

## PC Recommendation - SEPA Phase 2 Code Amendments

The Planning Commission of the City of Marysville, having held a public hearing on November 12, 2014, which was continued to November 25, 2014, in review of amendments related to the State Environmental Policy Act (SEPA) by amending Marysville Municipal Code (MMC) Sections 22E.030.090(2)(a - e) and 22E.030.090(3 - 7), and having considered the exhibits and testimony presented, does hereby enter the following findings, conclusions and recommendation for consideration by Marysville City Council:

### FINDINGS:

1. The Planning Commission held a public work session to review amendments related to the SEPA Code on September 23, 2014.
2. The proposed amendment to the City's development regulations is exempt from State Environmental Policy Act review under WAC 197-11-800(19).
3. Community Development Staff submitted the DRAFT amendments related to the SEPA Code to the State of Washington Department of Commerce for expedited review pursuant to RCW 36.70A.106(3)(b). No comments were received from State Agencies.
4. The Planning Commission held a duly-advertised public hearing on November 12, 2014, which was continued to November 25, 2014.
5. No public comments were received on the DRAFT amendments to the SEPA Code.

### CONCLUSION:

At the public hearing, which was continued to November 25, 2014, the Planning Commission recommended adoption of the amendments related to the SEPA Code, as reflected in the Ordinance attached hereto as **Exhibit A**, and as reflected in the Planning Commission Minutes attached hereto as **Exhibit(s) B & C**.

### RECOMMENDATION:

Forwarded to City Council as a Recommendation of Approval of the development code amendments related to the SEPA Code by the Marysville Planning Commission this 25<sup>th</sup> day of November, 2014.

By: \_\_\_\_\_

Steve Leifer, Planning Commission Chair

# EXHIBIT A

**CITY OF MARYSVILLE  
Marysville, Washington  
ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON RELATED TO THE STATE ENVIRONMENTAL POLICY ACT (SEPA) AMMENDING MARYSVILLE MUNICIPAL CODE (MMC) SECTION 22E.030.090; AND AMENDING MMC SECTION 22A.010.160 GENERAL ADMINISTRATION, RELATED TO TRACKING AMENDMENTS TO THE CITY'S UNIFORM DEVELOPMENT CODE; PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE.**

**WHEREAS**, the State Growth Management Act, RCW Chapter 36.70A mandates that cities periodically review and amend development regulations which include but are not limited to zoning ordinances and official controls; and

**WHEREAS**, RCW 36.70A.106 requires the processing of amendments to the City's development regulations in the same manner as the original adoption of the City's comprehensive plan and development regulations; and

**WHEREAS**, the State Growth Management Act requires notice and broad public participation when adopting or amending the City's comprehensive plan and development regulations; and

**WHEREAS**, the City, in reviewing and amending its development regulations has complied with the notice, public participation and processing requirements established by the Growth Management Act, as more fully described below; and

**WHEREAS**, the City Council of the City of Marysville finds that from time to time it is necessary and appropriate to review and revise provisions of the City's municipal code and development code (MMC Title 22); and

**WHEREAS**, the development code amendment is consistent with the following required findings of MMC 22G.010.500:

- (1) The amendment is consistent with the purposes of the comprehensive plan;
- (2) The amendment is consistent with the purpose of this title;
- (3) There have been significant changes in the circumstances to warrant a change;
- (4) The benefit or cost to the public health, safety and welfare is sufficient to warrant the action.

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

**WHEREAS**, on November 12, 2014, the Marysville Planning Commission held a duly-advertised public hearing, which was continued to November 25, 2014; and

# EXHIBIT A

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

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

**WHEREAS**, the City of Marysville received expedited review under RCW 36.70A.106(3)(b) for the proposed development regulation revisions from the Washington State Department of Commerce on September 9, 2014, in compliance with the procedural requirement under RCW 36.70A.106; and

**WHEREAS**, the amendments to the development regulations are exempt from State Environmental Policy Act review under WAC 197-11-800(19);

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

**Section 1. MMC 22E.030.090, is hereby added as follows:**

**22E.030.090 Categorical exemptions, threshold determinations, and enforcement of mitigating measures.**

The city of Marysville adopts WAC 197-11-300 through 197-11-390, 197-11-800 through 197-11-890, and 197-11-908 as now existing or hereinafter amended, by reference, subject to the following:

(1) Establishment of Flexible Thresholds for Categorically Exempt Actions. The following exempt threshold levels are hereby established pursuant to WAC 197-11-800(1)(d):

(a) The construction or location of any single-family residential structures of less than or equal to 30 dwelling units;

(b) The construction or location of any multifamily residential structures of less than or equal to 60 dwelling units;

(c) The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering less than or equal to 40,000 square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots;

(d) The construction of an office, school, commercial recreational, service or storage building with less than or equal to 30,000 square feet of gross floor area, and with associated parking facilities and/or independent parking facilities designed for less than or equal to 90 automobiles;

(e) Any landfill or excavation of less than or equal to 1,000 cubic yards throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder.

(2) The exemptions in this subsection apply except when the project:

(a) Is undertaken wholly or partly on lands covered by water and this remains true whether lands covered by water are mapped;

(b) Requires a license governing discharges to water that is not exempt under RCW 43.21C.0383;

(c) Requires a license governing emissions to air that is not exempt under RCW 43.21C.0381 or WAC 197-11-800 (7) or (8); or

# EXHIBIT A

(d) Requires a land use decision that is not exempt under WAC 197-11-800(6).

(e) A series of exempt actions that are physically or functionally related to each other, and that together may have a probable significant adverse environmental impact in the judgment of the Director/Agency with jurisdiction may be subject to SEPA

~~(23)~~ Categorical Exemptions without Flexible Thresholds. The following proposed actions that do not have flexible thresholds are categorically exempt from threshold determination and EIS requirements, subject to the rules and limitations on categorical exemptions contained in WAC 197-11-305:

(a) Actions listed in WAC 197-11-800(2) through ~~(24)~~~~26~~.

~~(34)~~ Environmentally Critical Areas. The Marysville shoreline environments map and the critical areas maps adopted pursuant to this title designate the location of environmentally sensitive areas within the city and are adopted by reference. For each environmentally sensitive area, the exemptions within WAC 197-11-800 that are inapplicable for the area are (1), (2)(d), (2)(e), (6)(a) and ~~(24)~~(a) through (g). Unidentified exemptions shall continue to apply within environmentally sensitive areas of the city.

(a) Lands Covered by Water. Certain exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are mapped.

(b) Treatment. The city shall treat proposals located wholly or partially within an environmentally critical area no differently than other proposals under this chapter, making a threshold determination for all such proposals. The city shall not automatically require an EIS for a proposal merely because it is proposed for location in an environmentally critical area.

~~(45)~~ Responsibility for Determination of Categorical Exempt Status. The determination of whether a proposal is categorically exempt shall be made by the responsible official.

~~(56)~~ Mitigation Measures. Modifications to a SEPA checklist or other environmental documentation that result in substantive mitigating measures shall follow one of the following processes:

(a) The responsible official may notify the applicant of the requested modifications to the proposal and identify the concerns regarding unmitigated impacts. The applicant may elect to revise or modify the environmental checklist, application, or supporting documentation. The modifications may include different mitigation measures than those requested by the responsible official; however, acceptance of the proposed measures is subject to subsequent review and approval by the responsible official.

(b) The responsible official may make a mitigated determination of nonsignificance (MDNS), identifying mitigating measures. The MDNS may be appealed by the applicant pursuant to MMC 22E.030.180.

(c) The responsible official may identify mitigating measures in a letter and mail that letter to the applicant. In writing, the applicant may acknowledge acceptance of these measures as mitigating conditions. The acknowledgement shall be incorporated into the application packet as supporting environmental documentation or as an addendum to the environmental checklist.

~~(67)~~ Enforcing Mitigation Measures. Pursuant to WAC 197-11-350(7), the city hereby adopts the following procedures for the enforcement of mitigation measures:

(a) Incorporation of Representations Made by Applicant into MDNS or DNS and Approval. Representations made in the environmental checklist and supporting documentation shall be considered as the foundation of any decision or recommendation of approval of the action. As such, the responsible official relies on this documentation in making a decision on a proposal. Unless specifically revised by the responsible official or

# EXHIBIT A

applicant, those statements, representations, and mitigating measures contained in the environmental checklist, application, and supporting documentation shall be considered material conditions of any approval. Mitigating measures shall only be included on a DNS under the following circumstances:

(i) When the UDC does not provide adequate regulations to mitigate for an identified impact, and when any one of the following circumstances or combination of circumstances exists:

(A) When such conditions are not specifically written in the environmental checklist, application, or supporting information; or

(B) When the responsible official determines that the proposed conditions or representations contained within that information do not adequately address impacts from a proposal.

(b) Modifications to a Proposal – Responsible Official May Withdraw Threshold Determination. If, at any time, the proposal or proposed mitigation measures are substantially changed, or if proposed mitigation measures are withdrawn, then the responsible official shall review the threshold determination and, if necessary, may withdraw the threshold determination and issue a revised determination, including a determination of significance (DS), as deemed appropriate.

(c) Enforcement of Mitigation Measures. Mitigation measures that are identified in an environmental checklist, development application, supporting documentation, an EIS or an MDNS shall be considered material conditions of the permit or approval that is issued by the reviewing department. As such, failure to comply with these measures may be enforceable through the enforcement provisions that regulate the proposal.

**Section 2.** MMC 22A.010.160, Amendments, of MMC Chapter 22A.010, General Administration, is hereby amended as follows by adding reference to this adopted ordinance in order to track amendments to the City’s Unified Development Code:

**“22A.010.160 Amendments.**

The following amendments have been made to the UDC subsequent to its adoption:

<u>Ordinance</u>	<u>Title (description)</u>	<u>Effective Date</u>
_____	State Environmental Policy Act (SEPA)	_____, 2015”

**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 \_\_\_\_\_, 2015.

# EXHIBIT A

CITY OF MARYSVILLE

By: \_\_\_\_\_  
JON NEHRING, MAYOR

Attest:

By: \_\_\_\_\_  
APRIL O'BRIEN, DEPUTY CITY CLERK

Approved as to form:

By: \_\_\_\_\_  
GRANT K. WEED, CITY ATTORNEY

Date of Publication: \_\_\_\_\_

Effective Date: \_\_\_\_\_  
(5 days after publication)

# EXHIBIT B

## PLANNING COMMISSION



## MINUTES

November 25, 2014

7:00 p.m.

City Hall

### CALL TO ORDER

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

### Marysville

**Chairman:** Steve Leifer

**Commissioners:** Roger Hoen, Jerry Andes, Kay Smith,

**Staff:** Planning Manager Chris Holland  
Associate Planner Angela Gemmer

**Absent:** Steven Lebo, Kelly Richards, Marvetta Toler

### APPROVAL OF MINUTES

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

### AUDIENCE PARTICIPATION

None

### OLD BUSINESS

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

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



## EXHIBIT B

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

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

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

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

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

### PUBLIC HEARING

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

#### Code Amendments:

- **Legislative Enactment Amendments**

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

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

## EXHIBIT B

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

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

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

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

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

- **Nonconforming Situations**

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

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

- **Sign Code**

Angela Gemmer reviewed the four proposed Sign code amendments:



## EXHIBIT B

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

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

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

- **Beekeeping**

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

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

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

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

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

Commissioner Smith concurred with Commissioner Andes.

## EXHIBIT B

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

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

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

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

- **Pet Daycares and Kennels**

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

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

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

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

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

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



## EXHIBIT B

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

- **State Environmental Policy Act**

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

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

- **Wireless Communication Facilities**

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

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

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

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

### CITY COUNCIL AGENDA ITEMS AND MINUTES

#### ADJOURNMENT

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

#### NEXT MEETING:

December 9, 2014



Laurie Hugdahl, Recording Secretary

# EXHIBIT C

## PLANNING COMMISSION



## MINUTES

September 23, 2014

7:00 p.m.

City Hall

### CALL TO ORDER

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

#### Marysville

**Chairman:** Steve Leifer

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

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

**Absent:** Roger Hoen, Marvetta Toler

### APPROVAL OF MINUTES

#### September 9, 2014 Meeting Minutes

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

### AUDIENCE PARTICIPATION

None



# EXHIBIT C

## CITIZEN ADVISORY COMMITTEE FOR HOUSING AND COMMUNITY DEVELOPMENT – PC MEMBER

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

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

## NEW BUSINESS

- Code Amendments

### Critical Areas – Geologic Hazard

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

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

# EXHIBIT C

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

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

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

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

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

## SEPA Phase 2 Revisions

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

## SEPA/Wireless Communication Facilities (WCF) Exemption

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



# EXHIBIT C

## School, traffic and park impact fee expenditures

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

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

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

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

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

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

## Sign Code

Associate Planner Gemmer reviewed proposed changes to the sign code:

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

# EXHIBIT C

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

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

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

## Billboards

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

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



# EXHIBIT C

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

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

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

## OLD BUSINESS

- Honey Bees

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

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

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

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

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

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

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

# EXHIBIT C

- Kennels

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

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

## **NEXT MEETING – October 14**

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

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

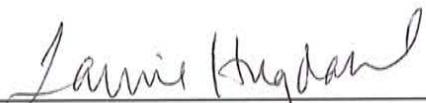
Chair Leifer thanked staff for the information provided on Industrial Center areas.

## **CITY COUNCIL AGENDA ITEMS AND MINUTES**

None

## **ADJOURNMENT**

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

  
\_\_\_\_\_  
Laurie Hugdahl, Recording Secretary



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

**MEMORANDUM**

**DATE: August 25, 2014**  
**TO: Planning Commission**  
**FROM: Cheryl Dungan, Senior Planner**  
**RE: Phase 2 - Summary of SEPA 'Draft' Flexible Threshold Categorical Amendments**

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The State Environmental Policy Act (SEPA) was adopted in 1971 when the nation’s awareness of environmental problems was emerging. Many laws and procedures for environmental protection, land use planning, and infrastructure provisions have been implemented since SEPA was first adopted.

The Washington State Legislature adopted SB 6406 during the 2012 legislative session that made changes to the current SEPA thresholds. Phase 1 of the changes took effect on January 31, 2013, which the City adopted by Ordinance 2939 on November 12, 2013. Phase 2 of the changes took effect in June of 2014. Below is a summary of what the state legislature adopted in Phase 2 as well as a summary of proposed staff recommended code amendments. As you will see in the chart below, the majority of changes require no action by the City since the City adopted by reference in 22E.030 Chapter 43.21C RCW ‘SEPA Procedures’ and Chapter 197-11 WAC ‘SEPA Rules’ as adopted or otherwise amended.

WAC Section	Description of Change	Recommended changes to MMC 22E.030
197-11-610	Added a clarification that a NEPA environmental assessment is to support a determination not replace it.	None – changes adopted by reference
197-11-800(1)(a)	Reorganized the section ease of reading. Also, rezones are now covered under 800(6)	Amended MMC 22E.030.090(2)(a-e) to reflect clarified language; removed similar language from 22E.030.090.(4)(a-b); and renumbered section

WAC Section	Description of Change	Recommended changes to MMC 22E.030
197-11-800 (1)(c)(ii)	Provided clarification that notice is to include public, affected tribes and agencies.	None – changes adopted by reference
197-11-800 (1)(c)(iii)	For clarification - identified "agency" instead of "local government."	None – changes adopted by reference
197-11-800 (1)(c)(iv)	Section has been reworded and clarification added to address cultural resource concerns, the intent remains the same.	None – changes adopted by reference
197-11-800 (2)(a)(i)-(iv)	Reorganized the beginning of WAC 197-11-800(2) and corrected a typographical error – intent is the same.	None – changes adopted by reference
197-11-800(26)	Section was moved from WAC 197-11-860 to 197-11-800(26). If left in WAC 197-11-860 the exemption would not be applicable to the permits issued by other agencies for WSDOT repair, replace or retrofit projects. This was moved to clarify intent - certain WSDOT projects are intended to be exempt from SEPA.	Amended 22E.030.090(2)(a) – 'Categorical Exemptions, threshold determinations, and enforcement of mitigating measures' to reflect section relocation
197-11-800 (2)(h)	Added "total" to capacity for clarity.	None – changes adopted by reference
197-11-800(5)	Improved clarity of section in response to comments. The intent of this section is to exempt the sale of public property from SEPA only if the property is	None – changes adopted by reference

WAC Section	Description of Change	Recommended changes to MMC 22E.030
	not specifically designated and authorized for public use.	
197-11-800(6)	There was confusion from stakeholders about ecology's intent. Changes have been made in response to add clarity and also identify that boundary line adjustments are exempt from SEPA.	None – changes adopted by reference
197-11-830	Clarified in response to comments – the intent is to exempt the sale of rock from Washington department of natural resources (DNR) rock pits regulated under a forest practices permit.	None – changes adopted by reference
197-11-860	Moved language in this section to WAC 197-11-800(26).	Amended 22E.030.090(2)(a)(26) – 'Categorical Exemptions, threshold determinations, and enforcement of mitigating measures' to reflect section relocation
197-11-875(19)	Technical correction - added in the "pollution control hearings board" which replaced the "forest practices appeals board."	None – changes adopted by reference
197-11-936	Clarified section and inserted "local agency" instead of "county/city" as other types of local governments (ports, special districts, etc...) can be lead agency.	None – changes adopted by reference
197-11-938(12)	Technical correction – section should refer to	None – changes adopted by

WAC Section	Description of Change	Recommended changes to MMC 22E.030
	department of health for uranium milling, not department of social and health services.	reference
197-11-960	Provided corrections and clarifications to questions on the checklist in response to comments. No new questions or topics have been added.	None – changes adopted by reference

RECOMMENDATION: Review the proposed changes and set public hearing date for November 12, 2014.



**CITY OF MARYSVILLE**  
**Marysville, Washington**  
**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON  
RELATED TO THE STATE ENVIRONMENTAL POLICY ACT (SEPA)  
AMMENDING MARYSVILLE MUNICIPAL CODE (MMC) SECTION  
22E.030.090; AND AMENDING MMC SECTION 22A.010.160 GENERAL  
ADMINISTRATION, RELATED TO TRACKING AMENDMENTS TO THE  
CITY'S UNIFORM DEVELOPMENT CODE; PROVIDING FOR  
SEVERABILITY AND EFFECTIVE DATE.**

**WHEREAS**, the State Growth Management Act, RCW Chapter 36.70A mandates that cities periodically review and amend development regulations which include but are not limited to zoning ordinances and official controls; and

**WHEREAS**, RCW 36.70A.106 requires the processing of amendments to the City's development regulations in the same manner as the original adoption of the City's comprehensive plan and development regulations; and

**WHEREAS**, the State Growth Management Act requires notice and broad public participation when adopting or amending the City's comprehensive plan and development regulations; and

**WHEREAS**, the City, in reviewing and amending its development regulations has complied with the notice, public participation and processing requirements established by the Growth Management Act, as more fully described below; and

**WHEREAS**, the City Council of the City of Marysville finds that from time to time it is necessary and appropriate to review and revise provisions of the City's municipal code and development code (MMC Title 22); and

**WHEREAS**, the development code amendment is consistent with the following required findings of MMC 22G.010.500:

- (1) The amendment is consistent with the purposes of the comprehensive plan;
- (2) The amendment is consistent with the purpose of this title;
- (3) There have been significant changes in the circumstances to warrant a change;
- (4) The benefit or cost to the public health, safety and welfare is sufficient to warrant the action.

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

**WHEREAS**, on November 12, 2014, the Marysville Planning Commission held a duly-advertised public hearing, which was continued to November 25, 2014; and

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

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

**WHEREAS**, the City of Marysville received expedited review under RCW 36.70A.106(3)(b) for the proposed development regulation revisions from the Washington State Department of Commerce on September 9, 2014, in compliance with the procedural requirement under RCW 36.70A.106; and

**WHEREAS**, the amendments to the development regulations are exempt from State Environmental Policy Act review under WAC 197-11-800(19);

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

**Section 1. MMC 22E.030.090, is hereby added as follows:**

**22E.030.090 Categorical exemptions, threshold determinations, and enforcement of mitigating measures.**

The city of Marysville adopts WAC 197-11-300 through 197-11-390, 197-11-800 through 197-11-890, and 197-11-908 as now existing or hereinafter amended, by reference, subject to the following:

(1) Establishment of Flexible Thresholds for Categorically Exempt Actions. The following exempt threshold levels are hereby established pursuant to WAC 197-11-800(1)(d):

(a) The construction or location of any single-family residential structures of less than or equal to 30 dwelling units;

(b) The construction or location of any multifamily residential structures of less than or equal to 60 dwelling units;

(c) The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering less than or equal to 40,000 square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots;

(d) The construction of an office, school, commercial recreational, service or storage building with less than or equal to 30,000 square feet of gross floor area, and with associated parking facilities and/or independent parking facilities designed for less than or equal to 90 automobiles;

(e) Any landfill or excavation of less than or equal to 1,000 cubic yards throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder.

(2) The exemptions in this subsection apply except when the project:

(a) Is undertaken wholly or partly on lands covered by water and this remains true whether lands covered by water are mapped;

(b) Requires a license governing discharges to water that is not exempt under RCW 43.21C.0383;

(c) Requires a license governing emissions to air that is not exempt under RCW 43.21C.0381 or WAC 197-11-800 (7) or (8); or

(d) Requires a land use decision that is not exempt under WAC 197-11-800(6).

(e) A series of exempt actions that are physically or functionally related to each other, and that together may have a probable significant adverse environmental impact in the judgment of the Director/Agency with jurisdiction may be subject to SEPA

(23) Categorical Exemptions without Flexible Thresholds. The following proposed actions that do not have flexible thresholds are categorically exempt from threshold determination and EIS requirements, subject to the rules and limitations on categorical exemptions contained in WAC 197-11-305:

(a) Actions listed in WAC 197-11-800(2) through (2426).

(34) Environmentally Critical Areas. The Marysville shoreline environments map and the critical areas maps adopted pursuant to this title designate the location of environmentally sensitive areas within the city and are adopted by reference. For each environmentally sensitive area, the exemptions within WAC 197-11-800 that are inapplicable for the area are (1), (2)(d), (2)(e), (6)(a) and (24)(a) through (g). Unidentified exemptions shall continue to apply within environmentally sensitive areas of the city.

(a) Lands Covered by Water. Certain exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are mapped.

(b) Treatment. The city shall treat proposals located wholly or partially within an environmentally critical area no differently than other proposals under this chapter, making a threshold determination for all such proposals. The city shall not automatically require an EIS for a proposal merely because it is proposed for location in an environmentally critical area.

(45) Responsibility for Determination of Categorical Exempt Status. The determination of whether a proposal is categorically exempt shall be made by the responsible official.

(56) Mitigation Measures. Modifications to a SEPA checklist or other environmental documentation that result in substantive mitigating measures shall follow one of the following processes:

(a) The responsible official may notify the applicant of the requested modifications to the proposal and identify the concerns regarding unmitigated impacts. The applicant may elect to revise or modify the environmental checklist, application, or supporting documentation. The modifications may include different mitigation measures than those requested by the responsible official; however, acceptance of the proposed measures is subject to subsequent review and approval by the responsible official.

(b) The responsible official may make a mitigated determination of nonsignificance (MDNS), identifying mitigating measures. The MDNS may be appealed by the applicant pursuant to MMC 22E.030.180.

(c) The responsible official may identify mitigating measures in a letter and mail that letter to the applicant. In writing, the applicant may acknowledge acceptance of these measures as mitigating conditions. The acknowledgement shall be incorporated into the application packet as supporting environmental documentation or as an addendum to the environmental checklist.

(67) Enforcing Mitigation Measures. Pursuant to WAC 197-11-350(7), the city hereby adopts the following procedures for the enforcement of mitigation measures:

(a) Incorporation of Representations Made by Applicant into MDNS or DNS and Approval. Representations made in the environmental checklist and supporting documentation shall be considered as the foundation of any decision or recommendation of approval of the action. As such, the responsible official relies on this documentation in making a decision on a proposal. Unless specifically revised by the responsible official or

applicant, those statements, representations, and mitigating measures contained in the environmental checklist, application, and supporting documentation shall be considered material conditions of any approval. Mitigating measures shall only be included on a DNS under the following circumstances:

(i) When the UDC does not provide adequate regulations to mitigate for an identified impact, and when any one of the following circumstances or combination of circumstances exists:

(A) When such conditions are not specifically written in the environmental checklist, application, or supporting information; or

(B) When the responsible official determines that the proposed conditions or representations contained within that information do not adequately address impacts from a proposal.

(b) Modifications to a Proposal – Responsible Official May Withdraw Threshold Determination. If, at any time, the proposal or proposed mitigation measures are substantially changed, or if proposed mitigation measures are withdrawn, then the responsible official shall review the threshold determination and, if necessary, may withdraw the threshold determination and issue a revised determination, including a determination of significance (DS), as deemed appropriate.

(c) Enforcement of Mitigation Measures. Mitigation measures that are identified in an environmental checklist, development application, supporting documentation, an EIS or an MDNS shall be considered material conditions of the permit or approval that is issued by the reviewing department. As such, failure to comply with these measures may be enforceable through the enforcement provisions that regulate the proposal.

**Section 2.** MMC 22A.010.160, Amendments, of MMC Chapter 22A.010, General Administration, is hereby amended as follows by adding reference to this adopted ordinance in order to track amendments to the City’s Unified Development Code:

**“22A.010.160 Amendments.**

The following amendments have been made to the UDC subsequent to its adoption:

<u>Ordinance</u>	<u>Title (description)</u>	<u>Effective Date</u>
_____	State Environmental Policy Act (SEPA)	_____, 2015”

**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 \_\_\_\_\_, 2015.

CITY OF MARYSVILLE

By: \_\_\_\_\_  
JON NEHRING, MAYOR

Attest:

By: \_\_\_\_\_  
APRIL O'BRIEN, DEPUTY CITY CLERK

Approved as to form:

By: \_\_\_\_\_  
CITY ATTORNEY

Date of Publication: \_\_\_\_\_

Effective Date: \_\_\_\_\_  
(5 days after publication)