

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: June 6, 2016

AGENDA ITEM: Briefing on Back Yard Nuisance Complaints	
PREPARED BY: Dave Koenig	DIRECTOR APPROVAL:
DEPARTMENT: Community Development	
ATTACHMENTS:	
BUDGET CODE:	AMOUNT:
SUMMARY:	

The Community Development Department has been getting complaints about materials in back yards which neighborhoods can see from their property and are considered by those neighbors as undesirable. A PowerPoint presentation will show examples of yards which complaints have been received from adjacent property owners. The current Marysville Municipal code requires the cleanup of the front yard, side yard, rear yard or vacant lot unless screened from public view from the adjacent frontage street or streets. In a backyard which is fenced and not visible from the street the current code does not address the cleanup of those yards.

RECOMMENDED ACTION: Staff recommends that Council give direction on how to proceed on addressing backyards which are a concern of adjacent neighbors.

Accumulation of Waste in Screened BackYards

Examples of properties which the city
has received complaints
from adjacent property owners
on the conditions of the back yards

MMC Section 6.24.050, *Types of nuisances*, subsection (6)

MMC Section 6.24.050(6) states that the following is a public nuisance:

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



10.29.2015 11:32



Item 13 - 5



Item 13 - 6





02.24.2015 11:28

Item 13 - 8



Item 13 - 9



05.05.2016 13:03

Item 13 - 10



03.23.2016 12:31

Item 13 - 11



07.29.2015 12:23

Item 13 - 12



Item 13 - 13



03.22.2016 08:27







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

- Council Feedback on how to proceed.



MEMORANDUM

To: Marysville City Council

From: Jon Walker, City Attorney

cc: Mayor Jon Nehring, CAO Gloria Hirashima

Date: May 27, 2016

re: Nuisance provisions

Background

Washington cities have broad authority to declare and abate nuisances within their corporate limits.¹ As a code city, Marysville has all the powers which any city of any class and, consequently, may utilize the nuisance powers specifically granted to cities of the first and second class.² As a very general matter, a nuisance is a substantial and unreasonable interference with the use and enjoyment of land.³ The

¹ WASH. CONST. Article XI, section 11 (“Any county, city, town or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws.”).

² RCW 35A.21.160 (conferring powers of all classes of cities on code cities); RCW 35.22.280(30) (power of first class cities to declare and abate nuisances: “To declare what shall be a nuisance, and to abate the same, and to impose fines upon parties who may create, continue, or suffer nuisances to exist”); RCW 35.23.440(10) (same - second class cities: “To declare what shall be deemed nuisances; to prevent, remove, and abate nuisances at the expense of the parties creating, causing, or committing or maintaining the same, and to levy a special assessment on the land or premises whereon the nuisance is situated to defray the cost or to reimburse the city for the cost of abating the same.”). State law also addresses public nuisances in chapter 7.48 RCW, but most cities have exercised their authority to declare as public nuisances a broader range of circumstances as constituting nuisances than does state law.

³ *Grundy v. Thurston County*, 155 Wn.2d 1, 117 P.3d 1089 (2005).

standard that is applied to determine whether the perception of interference is reasonable is a person of ordinary and normal sensibilities.⁴

Below is a discussion of Marysville’s code provisions regarding storage and examples of other cities’ similar provisions.

Marysville’s Public Nuisance Scheme

Under section 6.24.040 of the Marysville municipal code, a person may accumulate the following so long as it is “screened from public view from the adjacent frontage street or streets”; there is no requirement that it be screened from adjoining lots or public property that is not a street (e.g. a park):

any and all junk, trash, litter, garbage,^[5] boxes, bottles, or cans; any and all unused animal pens or cages, including any type of insect enclosures; and any and all discarded lumber, salvaged materials, or other similar materials, except for such materials being used for an immediate construction project on said premises

and

Broken or discarded furniture, furnishings, appliances, household equipment and other similar items

and

Vegetation exceeding 12 inches in height (exclusive of plants and flowers within a flower bed, shrubbery and trees)

and

Nonoperational or unused automobiles⁶ or parts thereof, or other articles of personal property which are discarded or left in a state of partial construction or repair for longer than 30 days

⁴ *Riblet v. Ideal Cement Co.*, 57 Wn.2d 619, 622, 358 P.2d 975, 977 (1961).

⁵ MMC 7.08.060 imposes a “duty” for city residents to maintain “portable containers” for garbage and to deposit their garbage in that container (which is owned by the city). A civil infraction may be issued for a violation of chapter 7.08 MMC. MMC 7.08.150. A civil infraction may be issued for a public nuisance for the first two violations; after that it is a misdemeanor. MMC 6.24.040. A public nuisance may also be abated. MMC 6.24.060.

⁶ A “junk vehicle” is a nuisance regardless of whether it is screened from view. MMC 11.36.030 adopts the definition in RCW 46.55.010(5)

"Junk vehicle" means a vehicle certified under RCW 46.55.230 as meeting at least three of the following requirements:

- (a) Is three years old or older;

and

open storage⁷

Recreational vehicles, boats, and trailer may be parked in the side or rear yard setbacks is allowed so long as emergency responders may access all sides of a structure. No screening is required.

Other Washington cities

Many other Washington cities declare accumulations of certain items a public nuisance regardless of whether the items are screened. Below are a sample of code provisions from across the state.

Spokane Valley

Spokane Valley prohibits the accumulation of a variety of items including:

Accumulations, stacks, or piles of building or construction materials not associated with a current, in-progress project including metal, wood, wire, electrical or plumbing materials in disarray or exposed to the elements on the property;

Garbage not kept in a proper receptacle with a tight-fitting lid;

(b) Is extensively damaged, such damage including but not limited to any of the following: A broken window or windshield, or missing wheels, tires, motor, or transmission;

(c) Is apparently inoperable;

(d) Has an approximate fair market value equal only to the approximate value of the scrap in it.

⁷ MMC 6.24.050 “It shall be a public nuisance within the city of Marysville . . .whether visible or not from any public street, alley or residence, any of the following conditions: . . .

(20) Open storage on premises except:

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

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

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

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

Accumulations of broken or neglected items, litter, salvage materials, and junk not in an approved enclosed structure.; recyclables not properly stored and regularly disposed of;

Broken or discarded household furniture, furnishings or equipment, or any appliances not in an approved enclosed structure;

Broken, inoperable, accumulations of, or parts of machinery or equipment not in an approved enclosed structure.

Arlington

In Arlington it is a nuisance for grass on any lot within seventy-five feet of an occupied residential or commercial building to be in excess of ten inches in height. That city also declares a nuisance:

Any litter, refuse, rubbish or garbage, furniture, or appliances or potentially dangerous machines;

Any poison oak or poison ivy, Russian thistle or other plant listed on the state noxious weed list, whether growing or otherwise;

Any bottles, cans, glass, ashes, small pieces of scrap iron, wire, metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster and all such trash or abandoned material;

Any trash, litter, rags, accumulations of empty barrels, boxes, crates, packing cases, mattresses, bedding, excelsior, packing hay, straw or other packing materials, lumber, scrap iron, tin or other metal, or anything whatsoever in which flies or rats may breed or multiply or which may be a fire hazard.

Omak

Omak requires accumulations to be screened from all other properties:

any lot or parcel used for the storage, collection, or abandonment of scrap or discarded goods and materials, to include household garbage, cardboard, plastics, rags, scrap metal, vehicular parts, batteries, tires, glass, used building materials, pallets, household appliances or furniture, or other scrap or discarded goods, materials, machinery, or two or more inoperable motor vehicles, or any other type of junk, if such goods, materials, or condition is visible from any public street, alley, or other public or private property [is a public nuisance].

Okanogan

Okanogan has a provision identical to that of Omak cited above and also prohibits

Filthy or littered trash-covered cellars, house yards, factory yards, vacant areas in rear of stores, vacant lots, houses, buildings or premises;

Tin cans, bottle, glass cans, small pieces of scrap iron, wire, material, bric-a-brac, broken crockery, broken glass, broken plaster, scrap building materials, and all such trash or abandon material unless the same be kept in covered bins or galvanized iron receptacles approved by the health officer;

Trash, litter, weeds or grass, rags, accumulations of empty barrels, boxes, crates, packing cases, mattresses, bedding, excelsior, packing straw, or other packing materials, lumber not piled, scrap iron, abandoned stoves, kitchen appliances, tine and other metal not neatly piled or anything whatsoever in which flies or rats may breed or multiply or which may be a fire danger.

Stanwood

Stanwood identifies the following as public nuisances:

Accumulation of bottles, cans, glass, ashes, small pieces of scrap iron, wire, metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster and all such trash, or abandoned material, unless it is kept in covered bins or galvanized iron receptacles;

Accumulation of trash, litter, rags, empty barrels, boxes, crates, packing cases, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, or anything whatsoever in which flies or rats may breed or multiply or which may be a fire hazard;

The existence on any premises of any abandoned, unusable trailer, house trailer, automobile, boat or other vehicle or major parts thereof;

The existence on any premises of abandoned, wrecked, dismantled, or inoperative vehicles which are not properly cared for, stored, licensed, or maintained and which constitute an attractive nuisance to children on public or private property except as provided for elsewhere in this chapter are declared a public nuisance and may be abated. It is unlawful for any person, firm or corporation to place or keep an abandoned vehicle, abandoned automobile hulk, wrecked, dismantled or inoperative vehicle or parts thereof upon any public or private property in the city or as owner, occupier or partly in control of any real property within the city to permit or allow any such automobile or portion thereof to be placed or kept on said property;

The existence on any premises of any items of personal property which are not properly stored and maintained and which constitute junk and trash;

Any weeds growing on lots within the city, including blackberry bushes, which the law enforcement officer determines to be unsightly, harbor vermin or present a fire hazard.

Kent

Kent identifies the following as public nuisances:

The existence of any trash, dirt, filth, the carcass of any animal, manure or rubbish, accumulation of yard trimmings, excluding properly maintained yard compost, or other matter which is offensive to a reasonable person; except for such yard debris that is properly contained and concealed as not to affect the health, safety, or depreciation of adjoining property for the purpose of composting;

An accumulation of material including but not limited to bottles, cans, glass, plastic, ashes, scrap metal, wire bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, litter, rags, empty barrels, boxes, crates, packing cases, mattresses, bedding, packing hay, straw, or other packing material or building materials on any premises which is not properly stored or neatly piled or is offensive to a reasonable person or in which flies or rats may breed or multiply;

Accumulation of any litter, garbage, trash, refuse, and/or rubbish;

The existence of wrecked or disassembled trailers, house trailers, boats, tractors, or other vehicle, appliance, or machinery of any kind, or any major parts thereof.