

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: June 13, 2016

AGENDA ITEM: AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, AMENDING MARYSVILLE MUNICIPAL CODE (MMC) SECTION 6.24.050 DEFINING PUBLIC NUISANCES; PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE.	
PREPARED BY: Jon Walker / Dave Koenig	DIRECTOR APPROVAL:
DEPARTMENT: Legal / Community Development	
ATTACHMENTS: Proposed Ordinance	
BUDGET CODE:	AMOUNT:
SUMMARY:	

The attached ordinance has been prepared after the June 6, 2016 City Council discussion. As discussed the Community Development Department has been getting complaints about materials in back yards which neighbors can see from their property and are considered by those neighbors as undesirable. A PowerPoint presentation showed examples of yards which complaints have been received from adjacent property owners.

The current Marysville Municipal Code does not require cleanup of the front yard, side yard, rear yard or vacant lot if the materials are screened from public view from the adjacent frontage street or streets. "Screened from public view" is defined in MMC 4.02.020(8): "Screened from public view" means sight-obscuring fencing and/or landscaping is installed around the area or objects."

Five subsections of MMC 6.24.050 permit certain conditions so long as the condition is "screened from public view" from the adjacent frontage street or streets:

(6) 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

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

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

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

(20) open storage.

The proposed ordinance addresses only subsection (6). Accordingly, if the Council adopts this ordinance, enforcement for the conditions identified in the other subsections would not change.

If a backyard is fenced so that the materials stored there are not visible from the street, it is not a public nuisance under the current code and the owner is not required to clean-up the yard. The change to subsection (6) would require that the materials identified in that subsection (junk, trash, litter, garbage, etc.) be stored in a manner that is not visible from an adjacent property, including buildings on the adjacent property. Thus, if a neighbor could see junk and trash in a neighboring yard from a second story window, it would be a public nuisance, but if that same neighbor could see the junk and trash only by climbing a ladder it would not be a public nuisance.

RECOMMENDED ACTION:

It is recommended that City Council authorize the Mayor to sign the Ordinance amending Marysville Municipal Code (MMC) Section 6.24.050(6) defining public nuisances.

CITY OF MARYSVILLE
Marysville, Washington
ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON,
AMENDING MARYSVILLE MUNICIPAL CODE (MMC) SECTION 6.24.050
DEFINING PUBLIC NUISANCES; PROVIDING FOR SEVERABILITY AND
EFFECTIVE DATE.**

WHEREAS, the City Council finds that updating the definition of "public nuisance" in Marysville Municipal Code (MMC) Section 6.24.050 will promote public health, safety, and welfare and protect property values;

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

Section 1. MMC 6.24.050 is amended to read as follows:

6.24.050 Types of nuisances.

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

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

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

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

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

(5) No person shall attach to utility poles any of the following: advertising signs, posters, vending machines, or any similar object which presents a hazard to, or endangers the lives of, electrical workers. Any attachment to utility poles shall only be made with the permission

of the utility company involved, and shall be placed not less than 12 feet above the surface of the ground.

(6) Accumulations of the following materials in any front yard, side yard, rear yard or vacant lot unless screened from ~~public~~-view from the adjacent frontage street or streets and from any adjacent public or private property including from the buildings on such 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.

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

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

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

(10) Graffiti, pursuant to Chapter 6.25 MMC.

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

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

(a) Is immobile because it either:

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

(ii) Has one or more flat tires; or

(iii) Is mounted on skids or jacks;

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

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

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

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

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

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

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

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

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

(20) Open storage on premises except:

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

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

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

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

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

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

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

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

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

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

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

(28) Heavy commercial equipment and vehicles used for commercial purposes exceeding 6,000 pounds that are not allowed to be parked, kept or stored in residentially zoned areas, on residential property in other zones, or on sites that have not been permitted, improved and approved for such use. This requirement shall not apply to the parking, keeping or storage of agricultural machinery on residential premises to be used for agricultural use allowed by MMC Title 22C, or when equipment or vehicles are used in conjunction with an ongoing permitted or allowed project, or to personal property and equipment that is primarily used on site for improvements and maintenance of the property.

(29) Temporary or portable structures, such as portable storage tents, temporary canopies, or other similar structures, which are not removed within 72 hours, when located within the front yard.

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

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

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

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

(34) Whoever shall deposit or place in or upon any premises, public or private, enclosed or common, within the city, any vegetable or animal matter or filth of a character likely to affect the public health, or to produce offensive odors, and whoever shall place or deposit in or upon

any such premises the carcass of any dead animal to be or remain unburied within the city limits for more than 24 hours after its death, shall be deemed guilty of creating and maintaining a public nuisance. (Ord. 2950 § 2, 2014; Ord. 2873 § 2, 2011; Ord. 2763 § 2, 2009; Ord. 2046 § 1, 1995).

Section 2. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

Section 3. Effective Date. This ordinance shall become effective five days after the date of its publication by summary.

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2016.

CITY OF MARYSVILLE

By: _____
JON NEHRING, MAYOR

Attest:

By: _____
APRIL O'BRIEN, DEPUTY CITY CLERK

Approved as to form:

By: _____
JON WALKER, CITY ATTORNEY

Date of Publication: _____

Effective Date: _____
(5 days after publication)