

CITY OF MARYSVILLE

Marysville, Washington

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARYSVILLE,  
WASHINGTON, AMENDING CHAPTER 6.24 OF THE MUNICIPAL CODE,  
DEFINING PUBLIC NUISANCES AND UPDATING DEFINITIONS.**

WHEREAS, the Mayor, City Council, and city staff have received numerous complaints of nuisance conditions impacting neighborhoods; and

WHEREAS, the municipal code permits the accumulation of garbage and trash so long as it is screened from public view from a public street; and

WHEREAS, the accumulation of garbage and trash in private yards endangers public health and safety and negatively affects property values; and

WHEREAS, state law authorizes the city to declare what shall be a nuisance, and 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; and

WHEREAS, amending the municipal code will update the code to reflect the current needs of the city and its residents and enhance public health, safety, and welfare.

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

SECTION 1. Amendment of Municipal Code. The municipal code is amended as set forth in Exhibit "A."

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 from:

By \_\_\_\_\_  
JON WALKER, CITY ATTORNEY

Date of publication: \_\_\_\_\_

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

# EXHIBIT A

## Chapter 6.24 PUBLIC NUISANCES<sup>1</sup>

### Sections:

- 6.24.010 Purpose and intent.
- 6.24.020 Definitions.
- 6.24.030 Statutes incorporated by reference.
- 6.24.040 Penalties and enforcement.
- 6.24.050 Types of nuisances.
- 6.24.060 Forced abatement.

### 6.24.010 Purpose and intent.

The purpose of this chapter is to create a system to maintain and protect the health, safety and welfare of the citizens of the city of Marysville and to establish the means by which compliance shall be accomplished.

### 6.24.020 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context or meaning clearly indicates otherwise:

~~(+)~~ “Abate” means to repair, replace, remove, destroy, correct or otherwise remedy the condition in question by such means and in such a manner and to such an extent as the director’s judgment determines is necessary in the interest of the general safety and welfare of the community.

“Costs of abatement” means the costs of any abatement action taken by the city to abate the violation using lawful means in the event that the property owner fails so to do. The term includes incidental expenses including, but not limited to, personnel costs, both direct and indirect and including attorney’s fees; costs incurred in documenting the violation; hauling, storage and disposal expenses; and actual costs and expenses of the city in preparing notices, specifications and contracts, and in accomplishing and/or contracting and inspecting the work; the costs of any required printing and mailing; and costs of enforcement. This definition applies to costs incurred by the city using its own personnel or those incurred by the city using a contractor to perform the work.

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<sup>1</sup> Prior legislation: Ords. 965 and 1334.

~~(2)~~ “Director” means the director of community development or his or her designee. any department of the city, or such other head of a department that the city council has authorized by ordinance to utilize the provisions of this title and shall include any duly authorized representative of such director. If more than one department is authorized to act under this title, the term “director” shall also be understood to mean all applicable “directors.”

“Garbage” means all putrescible solid and semisolid wastes, including but not limited to animal and vegetable wastes, regardless of whether the waste consists only of putrescible waste or is mixed with other materials.

“Garbage” does not include the following:

(a) Recyclable refuse and yard waste as defined in this chapter;

(b) White goods, meaning any large household appliance, including refrigerators, stoves, water heaters, etc.;

(c) Rubber tires; or

(d) Oil.

~~(3)~~ “Nuisance” is the unlawful performance of an act or omission to perform a duty, which act or omission either annoys, injures or endangers the comfort, repose, health or safety of others, offends decency, or unlawfully interferes with, obstructs or tends to obstruct, or render dangerous for passage, any lake or navigable river, bay, stream, canal or basin, or any public park, square, street or highway; or in any way renders other persons insecure in life, or in the use of property.

~~(4)~~ “Person” means any natural person, organization, corporation or partnership and their agents, representatives or assigns.

“Person responsible for the property” means any person, in actual or constructive possession of a property, including, but not limited to, an owner, occupant, agent, or property manager of a property under his or her control.

~~(5)~~ “Premises” means any building, lot, parcel, real estate, land or portion thereof whether improved or unimproved, including adjacent sidewalks and parking strips.

“Property owner” means the owner of the premises as shown in the records of the Snohomish County Assessor and includes the “person responsible for the property.” It includes any mortgagee or beneficiary of a deed of trust of a property for which the owner listed in the records of the Snohomish County Assessor cannot be found.

~~(6)~~ “Public nuisance” is a nuisance that affects equally the rights of an entire community or neighborhood, although the extent of the damage may be unequal.

“Recyclable refuse” means:

(a) Newspapers;

(b) Uncoated mixed paper, including magazines, junk mail, phone books, bond or ledger grade, cardboard and paperboard packaging. (This does not include tissue paper, paper towels, frozen food containers, milk cartons or paper packaging combined with plastic, wax or foil);

(c) Recyclable plastic, glass, aluminum and other metal food and beverage containers.

“Trash” means materials that are not economically viable for further use, worthless, useless, or discarded such as bottles, broken glass, ashes (except human crematory ashes), waste paper, cans, the remains of anything broken down or destroyed including broken or discarded furniture, furnishings, appliances, household equipment and other similar items or other rubbish or debris.

“Yard waste” means plant material commonly created in the course of maintaining yards and gardens and through horticulture, gardening, landscaping, or similar activities. Yard waste includes, but is not limited to, grass clippings, leaves, branches, brush, weeds, flowers, roots, windfall fruit, and vegetable garden debris.

#### **6.24.030 Statutes incorporated by reference.**

The following statutes regarding public nuisances are incorporated by reference:

RCW

- 9.66.010 Public nuisance.
- 9.66.020 Unequal damage.
- 9.66.030 Maintaining or permitting nuisance.
- 9.66.050 Deposit of unwholesome substance; or establishment of detrimental business.

#### **6.24.040 Penalties and enforcement.**

The director and/or the Marysville police chief/department is charged with enforcement of the provisions of this chapter. It shall be unlawful for any person to allow a “public nuisance” upon any premises within the city of Marysville. Such violations shall be corrected by any reasonable and lawful means as provided in this chapter or titles, chapters, and sections of the MMC.

- (1) It is unlawful for any responsible person or owner to permit, maintain, suffer, carry on or allow a public nuisance to exist, as defined by this chapter, upon his/her premises any act or thing declared a nuisance by this chapter.
- (2) The first and second violations shall be a civil infraction under MMC 4.02.040 in the amounts set forth in MMC 4.02.040(3)(g)(ii) and (iii).
- (3) The third and subsequent violation of this chapter by the same responsible person within three years of his/her first violation is a criminal misdemeanor and shall carry a penalty of not more than \$1,000 (plus costs and assessments) in which \$500.00 shall be the minimum, or 90 days in jail, or both.
- (4) Each day the violation is in existence may be considered a separate violation.

(5) If the property owner and person responsible for the property are different persons or entities, then both the property owner and person responsible for the property are liable for any nuisance on the property and must remedy any nuisance. Any penalty may be assessed against both the property owner and person responsible for the property if the nuisance is not abated or remedied.

#### **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~~Storage, transportation, or use of any explosive or combustible substance ~~in the city, or carries it through the streets thereof, in quantity or manner prohibited~~except as permitted or authorized by ~~Chapter 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,~~Leaving or storing ~~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, in a place accessible to children.

(3) Having or permitting ~~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,~~ capping, or otherwise ~~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: 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) Garbage or trash~~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~~ except that being stored for disposal in containers conforming with the requirements of chapter 7.08 of the municipal code. No garbage or trash may be stored on a premises for more than seven days. Storage of all garbage and trash must conform to the requirements of chapters 7.06 and 7.08 of the municipal code.

(10) Oil, antifreeze, and other petroleum products may be stored in only watertight containers that cannot spill. Storage in any other type of container or in a manner that creates a fire hazard is a public nuisance.

(11) Any tires must be stored in a manner that rainwater cannot collect in them. Storage in any other manner is a public nuisance. Outdoor storage of more than twelve tires is a public nuisance, unless tire storage is an integral part of a licensed business and otherwise complies with the municipal code and other laws.

(12) Any inoperable or broken white goods (meaning any large household appliance, including refrigerators, stoves, water heaters, etc.) may be stored outside for no more than fourteen (14) consecutive days. Storage for a longer period is a public nuisance.

(13) Recyclable refuse may be stored in a side yard or backyard for no more than fourteen (14) consecutive days unless stored in watertight, sanitary containers. Storage in any other manner is a public nuisance.

(14) Any condition that is a public nuisance under state law or the common law.

~~(913)~~ 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.

~~(1014)~~ Graffiti, pursuant to Chapter 6.25 MMC.

~~(1115)~~ Abandoned and junk vehicles as defined by MMC 11.36.030.

~~(1216)~~ 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.

~~(1317)~~ 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.

~~(1418)~~ 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.

~~(1519)~~ Accessory structures, including detached garages, sheds, decks, patios and similar structures, which are not maintained structurally sound and in good repair.

~~(1620)~~ 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.

~~(217)~~ 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.

~~(1822)~~ 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.

~~(1923)~~ 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.

~~(2024)~~ 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.

~~(2125)~~ Premises ~~containing harboring or infested with~~ rodents, insects ~~and~~, vermin, ~~or vectors 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.

~~(2226)~~ 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.

~~(2327)~~ Any hazard tree, as substantiated by a certified arborist or other recognized tree professional, that threatens public health, safety or welfare.

~~(2428)~~ 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.

~~(2529)~~ 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.

~~(2630)~~ 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.

~~(2731)~~ 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.

~~(2832)~~ 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.

~~(2933)~~ 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.

~~(3034)~~ 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.

~~(3135)~~ 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.

~~(3236)~~ 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.

~~(3337)~~ 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.

~~(3438)~~ 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.

#### **6.24.060 ~~Forced a~~Abatement.**

~~Within 10 days after receiving a written notice and order in accordance with MMC Title 4, any person owning, occupying or controlling such premises who fails, neglects or refuses to correct said nuisance shall be found to be in violation of this chapter. The director may order said nuisance to be removed or abated per MMC Title 4 and all indebtedness to the city for removal shall be paid by the violator(s). Such cost and charges to be recovered by a civil action brought by the city against the violator pursuant to MMC Title 4.~~

~~(1) Where a public nuisance exists, the director and his or her designees or agents may enter upon the subject property and may remove, correct, or abate the nuisance using any lawful means. The city may use its own personnel to abate a nuisance or may contract with private parties to do so.~~

~~(2) The city may use judicial process or any means authorized by law to abate a nuisance.~~

#### **6.24.061 Summary Abatement.**

~~Whenever any nuisance is an immediate threat to the public health, safety, or welfare, or to the environment, the director or his or her designees or agents may summarily and without prior notice abate the nuisance. Notice of such abatement, including the reason for it, shall be given to the property owner as soon as practicable. No right of action shall lie against the city or its agents, officers, or employees for actions reasonably taken to prevent or cure any such immediate threats. The city shall not be entitled to recover any costs incurred for summary abatement prior to the time that actual notice of the necessity for summary abatement is provided to the property owner.~~

#### **6.24.062 Interference with Abatement**

~~Any person who knowingly obstructs, impedes, or interferes with the city or its agents in the performance of duties imposed by this chapter, is guilty of a misdemeanor punishable by imprisonment not exceeding ninety (90) days and a fine not exceeding one thousand dollars (\$1,000).~~

#### **6.24.063 Property Owner Responsible for Costs of Abatement**

~~The costs of any abatement action taken by the city shall become a charge to the property owner. Costs of abatement must be paid to the city within ten (10) calendar days from the date the city mails a notice that the costs are due. The city may use any lawful means to collect charges, including but not limited to utilizing a collection agency. The city attorney, or his or her designee, is authorized to take legal action to collect the costs of any abatement. All such costs and expenses shall constitute a lien against the affected property.~~

#### **6.24.064. Lien Authorized**

~~(1) The director or his or designee shall keep an itemized account of costs and expenses incurred in the abatement of a nuisance. Upon completion of the work of abatement, a report of the costs of abatement shall be prepared and filed with the city clerk, posted on the property abated, and mailed by first class and certified mail to the property owner and to any person known to be responsible for the property. The report shall include notice of how the costs may be appealed.~~

~~(2) The property owner or person responsible for the property may file a written appeal of the cost report. Such appeal must be delivered to the city clerk and to the Director within ten (10) calendar days from the date of mailing of the cost report. Any appeal must state the grounds for protesting or objecting to the cost report. The property owner's obligation to pay the costs of abatement shall be stayed during the period of appeal.~~

~~(3) The Director shall request a hearing date from the hearing examiner and a hearing shall be held within twenty-one (21) days of receipt of the appeal.~~

~~(4) At the hearing the hearing examiner shall take evidence from the city and the person objecting and either affirm the costs and expenses, modify them, or reject them.~~

(5) The costs of abatement shall be a lien on the property abated effective ten (10) calendar days after: (a) the date of mailing the cost report if no appeal is taken or (b) after the decision of the hearing examiner if the cost report is appealed. The priority of the lien will depend on the type of nuisance abated and be in accordance with state law, including RCW 35A.60.010 and the laws cited in that statute.

(6) As an alternative to the procedures in this section, the city may obtain a judgment or lien as authorized by other law or by court order.