

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: April 10, 2017

AGENDA ITEM: PA16-002 – 2016 Code Clean-up Amendments	AGENDA SECTION: New Business	
PREPARED BY: Angela Gemmer, Senior Planner	APPROVED BY:	
ATTACHMENTS: 1. Alternate options flag height – new alternative option C <i>(directly under cover sheet)</i> 2. Memo to City Council dated 3/17/17 3. Memo to City Council dated 2/22/17 4. PC Recommendation dated 2/14/17 5. PC Minutes dated 11/22/16, 1/10/17, 1/24/17 and 2/14/17 6. Adopting Ordinance 7. Correspondence on flagpole amendments per citizen’s request	MAYOR	CAO
	BUDGET CODE:	
BUDGET CODE:	AMOUNT:	

DESCRIPTION:

The Planning Commission (PC) held a public hearing on February 14, 2017 to review proposed amendments to Marysville Municipal Code Title 22, *Unified Development Code*. The proposed amendments are items observed over the last year that need to be updated in order to improve code clarity and overall review process, and include, but are not limited to, the following development regulations: flags and flagpoles, single family/duplex/townhouse parking requirement clarifications, duplex dimensional standards, adding and amending zoning definitions (i.e. dwelling, sign, flagpole, and social services), shipping containers standards (primarily in residential zones), manufactured homes age administrative variance, and residential accessory structure clarifications.

The PC received testimony from staff and other interested parties at the public hearing following public notice. The PC made a motion to recommend the proposed amendments to City Council for adoption by ordinance.

At the prior City Council work sessions and meetings, concerns were expressed regarding the height allowance for flagpoles. At the April 3, 2017 City Council work session additional guidance was provided by City Council on flagpole height. Alternative Option C, which is immediately below the agenda cover sheet, was drafted in response.

RECOMMENDED ACTION: Affirm the Planning Commission’s recommendation and adopt the 2016 Code Clean-up Amendments by Ordinance.
COUNCIL ACTION:

ALTERNATIVE FLAGPOLE HEIGHT – OPTION C

adjacent townhome or apartment development, provided the required setback applied to said development shall not exceed 60 feet. The setback shall be measured from said property line to the closest point of each single-family detached dwelling unit, excluding projections allowed per MMC [22C.010.210](#) and accessory structures existing at the time the townhome or apartment development receives approval by the city.

- (11) Townhome setbacks are reduced to zero on an interior side yard setback where the units have a common wall for zero lot line developments.
- (12) Townhome setbacks are reduced to five feet on side yard setbacks provided the buildings meet a 10-foot separation between structures.
- (13) Single-family detached units and duplexes on individual lots within the R-12 through R-28, and WR-R-6-18 zones shall utilize the dimensional requirements of the R-8 zone, except the base density.
- (14) Provided that the front yard setback shall be established as the point at which the lot meets the minimum width requirements. On a case-by-case basis, the street setback may be reduced to the minimum of 20 feet; provided, that the portion of the structure closest to the street is part of the "living area," to avoid having the garage become the predominant feature on the lot.
- (15) Subject to MMC [22A.020.130](#), subsection (1)(a) of the definition of "lot lines."
- (16) Required landscaping setbacks for developments on the north side of Soper Hill Road are 25 feet from the edge of sidewalk.
- (17) Projects with split zoning (two or more distinct land use zones) may propose a master site plan to density average at the zone edge or modify the zone boundaries using topography, access, critical areas, or other site characteristics in order to provide a more effective transition between land uses and zones. Approval is at the discretion of the community development director.

Section 10. Section 22C.010.210, Setbacks – Projections allowed, of the Marysville Municipal Code is hereby amended to read as follows:

Projections may extend into required setbacks as follows:

- (1) Fireplace structures including eaves and factory-built garden or bay windows may project into any setback, provided such projections are:
 - (a) Limited to two per facade;
 - (b) Not wider than 10 feet; and
 - (c) Not more than 24 inches into a side setback or 30 inches into a front or rear setback;
- (2) Uncovered porches and decks, including stairs, which exceed 30 inches above the finished grade may project:
 - (a) Eighteen inches into side setbacks; and
 - (b) Five feet into the front or rear setback;
- (3) Uncovered porches and decks not exceeding 30 inches above the finished grade, and uncovered accessory structures such as mechanical equipment, play structures, and tennis courts, may project to the property line, provided that, with the exception of uncovered porches and decks, the front property line setback for the zone shall be observed;
- (4) Eaves may not project more than:
 - (a) Twenty-four inches into a side setback;
 - (b) Thirty-four inches into a front or rear setback; or
 - (c) Eighteen inches across a lot line in a zero lot line development;
- (5) Accessory structures such as flagpoles and lampposts shall be setback a minimum of five feet from all property lines, provided:
 - (a) They are not located within a utility or access easement, and;
 - (b) Flags are not displayed in a manner that would cause the flag to encroach onto a neighboring property.

Section 11. Section 22C.010.220, Height – Exceptions to limits, of the Marysville Municipal Code is hereby amended to read as follows:

ALTERNATIVE FLAGPOLE HEIGHT – OPTION C

(1) Flagpoles may be up to 25 feet tall in all single family zones, and up to 35 feet tall in all multi-family zones; provided, that flagpoles on multi-family zoned properties developed with single family residences or duplexes shall be limited to 25 feet tall. Exception: flagpoles on single family and multi-family zoned properties that are 40,000 square feet or greater in size and developed with single family residences or duplexes may be up to 35 feet tall; provided, that setbacks that are equivalent to the height of the flagpole are maintained from all property lines.

(2) The following structures may be erected above the height limits of MMC 22C.010.080:

(4a) Roof structures housing or screening elevators, stairways, tanks, ventilating fans or similar equipment required for building operation and maintenance; and

(2b) Fire or parapet walls, skylights, chimneys, smokestacks, church steeples, and utility line towers and poles.

Section 12. Section 22C.020.060, Permitted uses, of the Marysville Municipal Code is hereby amended to read as follows:

Specific Land Use	NB	CB (63)	GC	DC	MU (63)	BP	LI	GI	REC	P/I
Residential Land Uses										
Dwelling Units, Types:										
Townhouse				P6	P					
Multiple-family	C4	P4, C5	P4, C5	P4, P6	P					
Mobile home	P7	P7	P7	P7	P7	P7	P7	P7		
Senior citizen assisted	P				C					P
Caretaker's quarters (3)	P	P	P	P	P	P	P	P	P	P
Group Residences:										
Adult family home	P	P	P	P	P	P70	P70	P70	P70	P
Convalescent, nursing, retirement	C	P	P	P	P					P
Residential care facility	P	P	P	P	P	P70	P70	P70	P70	P
Master planned senior community (10)					C					C
Accessory Uses:										
Home occupation (2)	P8	P8, P9	P8, P9	P8, P9	P8, P9	P9	P9	P9		
Temporary Lodging:										
Hotel/motel	P	P	P	P	P	P	P			

ALTERNATIVE FLAGPOLE HEIGHT – OPTION A

adjacent townhome or apartment development, provided the required setback applied to said development shall not exceed 60 feet. The setback shall be measured from said property line to the closest point of each single-family detached dwelling unit, excluding projections allowed per MMC [22C.010.210](#) and accessory structures existing at the time the townhome or apartment development receives approval by the city.

- (11) Townhome setbacks are reduced to zero on an interior side yard setback where the units have a common wall for zero lot line developments.
- (12) Townhome setbacks are reduced to five feet on side yard setbacks provided the buildings meet a 10-foot separation between structures.
- (13) Single-family detached units and duplexes on individual lots within the R-12 through R-28, and WR-R-6-18 zones shall utilize the dimensional requirements of the R-8 zone, except the base density.
- (14) Provided that the front yard setback shall be established as the point at which the lot meets the minimum width requirements. On a case-by-case basis, the street setback may be reduced to the minimum of 20 feet; provided, that the portion of the structure closest to the street is part of the "living area," to avoid having the garage become the predominant feature on the lot.
- (15) Subject to MMC [22A.020.130](#), subsection (1)(a) of the definition of "lot lines."
- (16) Required landscaping setbacks for developments on the north side of Soper Hill Road are 25 feet from the edge of sidewalk.
- (17) Projects with split zoning (two or more distinct land use zones) may propose a master site plan to density average at the zone edge or modify the zone boundaries using topography, access, critical areas, or other site characteristics in order to provide a more effective transition between land uses and zones. Approval is at the discretion of the community development director.

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 - (a) Limited to two per facade;
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 - (c) Not more than 24 inches into a side setback or 30 inches into a front or rear setback;
- (2) Uncovered porches and decks, including stairs, which exceed 30 inches above the finished grade may project:
 - (a) Eighteen inches into side setbacks; and
 - (b) Five feet into the front or rear setback;
- (3) Uncovered porches and decks not exceeding 30 inches above the finished grade, and uncovered accessory structures such as mechanical equipment, play structures, and tennis courts, may project to the property line, provided that, with the exception of uncovered porches and decks, the front property line setback for the zone shall be observed;
- (4) Eaves may not project more than:
 - (a) Twenty-four inches into a side setback;
 - (b) Thirty-four inches into a front or rear setback; or
 - (c) Eighteen inches across a lot line in a zero lot line development;
- (5) Accessory structures such as flagpoles and lampposts shall be setback a minimum of five feet from all property lines, provided:
 - (a) They are not located within a utility or access easement, and;
 - (b) Flags are not displayed in a manner that would cause the flag to encroach onto a neighboring property.

Section 11. Section 22C.010.220, Height – Exceptions to limits, of the Marysville Municipal Code is hereby amended to read as follows:

- (1) Flagpoles may be up to 25 feet tall in all single family and multi-family zones.

ALTERNATIVE FLAGPOLE HEIGHT – OPTION A

(2) The following structures may be erected above the height limits of MMC 22C.010.080:

(1a) Roof structures housing or screening elevators, stairways, tanks, ventilating fans or similar equipment required for building operation and maintenance; and

(2b) Fire or parapet walls, skylights, chimneys, smokestacks, church steeples, and utility line towers and poles.

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Senior citizen assisted	P				C					P
Caretaker's quarters (3)	P	P	P	P	P	P	P	P	P	P
Group Residences:										
Adult family home	P	P	P	P	P	P70	P70	P70	P70	P
Convalescent, nursing, retirement	C	P	P	P	P					P
Residential care facility	P	P	P	P	P	P70	P70	P70	P70	P
Master planned senior community (10)					C					C
Accessory Uses:										
Home occupation (2)	P8	P8, P9	P8, P9	P8, P9	P8, P9	P9	P9	P9		
Temporary Lodging:										
Hotel/motel	P	P	P	P	P	P	P			

ALTERNATIVE FLAGPOLE HEIGHT – OPTION B

adjacent townhome or apartment development, provided the required setback applied to said development shall not exceed 60 feet. The setback shall be measured from said property line to the closest point of each single-family detached dwelling unit, excluding projections allowed per MMC [22C.010.210](#) and accessory structures existing at the time the townhome or apartment development receives approval by the city.

- (11) Townhome setbacks are reduced to zero on an interior side yard setback where the units have a common wall for zero lot line developments.
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- (13) Single-family detached units and duplexes on individual lots within the R-12 through R-28, and WR-R-6-18 zones shall utilize the dimensional requirements of the R-8 zone, except the base density.
- (14) Provided that the front yard setback shall be established as the point at which the lot meets the minimum width requirements. On a case-by-case basis, the street setback may be reduced to the minimum of 20 feet; provided, that the portion of the structure closest to the street is part of the "living area," to avoid having the garage become the predominant feature on the lot.
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 - (a) They are not located within a utility or access easement, and;
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ALTERNATIVE FLAGPOLE HEIGHT – OPTION B

(1) Flagpoles may be up to 25 feet tall in all single family zones, and up to 35 feet tall in all multi-family zones; provided, that flagpoles on multi-family zoned properties developed with single family residences or duplexes shall be limited to 25 feet tall.

(2) The following structures may be erected above the height limits of MMC 22C.010.080:

(±a) Roof structures housing or screening elevators, stairways, tanks, ventilating fans or similar equipment required for building operation and maintenance; and

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Mobile home	P7	P7	P7	P7	P7	P7	P7	P7		
Senior citizen assisted	P				C					P
Caretaker's quarters (3)	P	P	P	P	P	P	P	P	P	P
Group Residences:										
Adult family home	P	P	P	P	P	P70	P70	P70	P70	P
Convalescent, nursing, retirement	C	P	P	P	P					P
Residential care facility	P	P	P	P	P	P70	P70	P70	P70	P
Master planned senior community (10)					C					C
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Home occupation (2)	P8	P8, P9	P8, P9	P8, P9	P8, P9	P9	P9	P9		
Temporary Lodging:										
Hotel/motel	P	P	P	P	P	P	P			



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

MEMORANDUM

DATE: March 17, 2017
TO: City Council
FROM: Angela Gemmer, Senior Planner
RE: 2016-17 Code Amendments – flags and flagpoles
CC: Dave Koenig, Community Development Director
Chris Holland, Planning Manager

The flag and flagpole amendments arose from a citizen-initiated code enforcement concern pertaining to the proximity of a flagpole to a property line. During review of the concern, the question arose whether the height and setback requirements applicable to accessory structures such as garages and sheds should apply to flagpoles since the MMC definition of accessory structures identifies flagpoles as a type of accessory structure. An “accessory structure” is defined in MMC 22A.020.020, as follows:

“Accessory structure” means a structure of secondary importance or function on a site. In general, the primary use of the site is not carried on in an accessory structure.

- (1) Accessory structures may be attached or detached from the primary structure.
- (2) Examples of accessory structures include:
 - (a) Garages;
 - (b) Decks;
 - (c) Fences;
 - (d) Trellises;
 - (e) Flagpoles;
 - (f) Stairways;
 - (g) Heat pumps;
 - (h) Awnings; and
 - (i) Other structures.

Since the MMC is mainly silent of accessory structures such as trellises, flagpoles, heat pumps, awnings, and other structures, staff had difficulties identifying how flagpoles should be treated in regards to height and setbacks. Ultimately, due to the fact that the code is mostly silent regarding flagpoles, staff decided that flagpoles should be required to comply with the provisions of [MMC Chapter 22C.180 Accessory Structures](#). These provisions require flagpoles not to exceed 20 feet in height and be setback a minimum of 5 feet from the side and rear lot lines and provide the minimum required front yard setback for principal structures in the zone (20 feet, but can be reduced to 10 feet on a case-by-case basis).

When MMC Chapter 22C.180, *Accessory Structures*, was adopted, the provisions of the code were intended for uses such as garages, sheds, carports and accessory dwelling units. Therefore, staff decided to research potential amendments related to flags and flagpoles.

In considering amendments to the MMC, staff researched the regulations for numerous jurisdictions throughout the State of Washington and found that most every jurisdictions' code was silent on flags and flagpoles with the exception of the City of Spokane. The proposed amendments are adapted from Spokane's regulations, and incorporate other revisions identified by staff to clarify the applicable standards. These amendments resolve the location and height standards applicable to flagpoles, and provide clarification on aspects of the sign code that pertain to flags.

At the March 7th City Council meeting, Mr. Kaiser raised concerns that the proposed height amendments would cause flagpoles to be out of scale with the surrounding residential development. As drafted, flagpoles are proposed to be allowed to "rise ten feet above the height limit, or five feet above the highest point of the roof, whichever is greater." Below is an excerpt of height limits from the City's residential density and dimensional matrices which shows the allowable heights in the various residential zones (*footnotes unrelated to height have been omitted from the excerpt below*).

22C.010.080 Densities and dimensions.

	R-4.5	R-6.5	R-8	WR-R-4-8	R-12 (13)	R-18 (13)	R-28 (13)	WR-R-6-18 (13)
Base height	30 ft	30 ft	30 ft	30 ft	35 ft (4)	45 ft (4)	45 ft (4)	35 ft (4)

22C.010.090 Densities and dimensions – Development conditions.

(4) Base Height.

(a) Height limits may be increased when portions of the structure which exceed the base height limit provide one additional foot of street and interior setback beyond the required setback for each foot above the base height limit; provided, that the maximum height may not exceed 60 feet.

(b) Multiple-family developments, located outside of Planning Area 1, abutting or adjacent to areas zoned as single-family, or areas identified in the comprehensive plan as single-family, may have no more floors than the adjacent single-family dwellings, when single-family is the predominant adjacent land use.

(13) Single-family detached units on individual lots within the R-12 through R-28, and WR-R-6-18 zones shall utilize the dimensional requirements of the R-8 zone, except the base density.

Under the proposed code amendment, the following would be the allowable heights for flagpoles.

	R-4.5	R-6.5	R-8	WR-R-4-8	R-12	R-18	R-28	WR-R-6-18
Height allowed for flagpoles	40 ft	40 ft	40 ft	40 ft	45 ft	55 ft	55 ft	45 ft

Consistent with MMC Section 22C.010.090(13), single family residences on individual lots in multi-family zones would be subject to the height standards of the R-8 zone. The drawing provided by Mr. Kaiser illustrating the proposed height of flagpoles was not to scale and implied that flagpoles up to 60 feet tall would be possible adjacent to single family residences; however, as the table above shows, this is not the case. Under the proposed regulations, the maximum height of a flagpole would be 10 feet above the applicable base height limit, so would be proportional to the structures that the flagpole is adjacent to. The reason that the

height is proposed to exceed the base height limit is to enable flags to fly in the wind since a flagpole that is shorter than a home may be unable to catch wind and fly depending on the location of the flagpole in relation to prevailing winds, adjacent residential structures, and the topography where the house is located.

Concerns were also raised regarding the proposed front yard setback allowance for flagpoles. The proposed language states that, "Accessory structures such as flagpoles and lampposts shall be setback a minimum of five feet from all property lines, provided: (a) They are not located within a utility or access easement, and; (b) Flags are not displayed in a manner that would cause the flag to encroach onto a neighboring property." Since most platted lots have utility easements in the front yard that range from 7 to 10 feet, the resulting front yard setback for flagpoles in most instances will effectively be 7 to 10 feet depending on the applicable plat conditions. Unplatted lots and plats that were not subject to utility easements could potentially have a 5 foot front yard setback, but these instances would be more limited.

The rest of the proposed structure setbacks for flagpoles are consistent with the setbacks that are generally applicable to accessory structures such as garages and sheds, and are also the same setbacks as code presently requires. In addition, since the proposed provisions require that flags not be displayed in a manner that would cause the flag to encroach onto a neighboring property, a greater side or rear yard setback than five feet may result.

While the provision in the sign code that references structural review for flagpoles is being omitted, (since the sign code is intended to pertain to signs not flags), structural review and permitting requirements would still apply to flagpoles as required by the currently adopted International Residential Code and International Building Code. Noise from flags must be consistent with the City's noise ordinance which adopts the noise restrictions set forth in the Washington Administrative Code (WAC).

Community Development staff respectfully requests that City Council adopt the amendments related to flags and flagpoles which were reviewed and recommended for approval by Planning Commission.



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

MEMORANDUM

DATE: February 24, 2017
TO: City Council
FROM: Angela Gemmer, Senior Planner
RE: 2016 Code Clean-Up Amendments
CC: Dave Koenig, Community Development Director
Chris Holland, Planning Manager

The following is a summary of proposed amendments to Title 22, *Unified Development Code* of the Marysville Municipal Code. The proposed code amendments are items observed over the last year that need to be updated in order to improve clarity and overall review process and include, but are not limited to, the following:

- Addition of, and amendments to, flag and flagpole provisions in order to:
 - Define the term 'flagpole';
 - Provide exceptions to the generally applicable height and setbacks standards for flagpoles and similar uncovered accessory structures;
 - Eliminate an exemption provision in the sign code which pertains to flags; and
 - Amend the definition of 'sign' to simply state that flags are not included in the 'sign' definition.
- Revision to the language regarding the minimum required parking spaces for single family residences, duplexes, townhouses, and mobiles homes to make it clear that three parking spaces are required per dwelling unit rather than two;
- Revision to footnotes in the residential density and dimensional standards table that pertain to duplexes in order to:
 - Clarify that the 12,500 square foot minimum lot size applies to duplex lots in the R-4.5 zone, and that the 7,200 square foot minimum lot size applies to duplex lots in the R-6.5, R-8, WR-R-4-8 zones; and
 - Allow duplexes on individual lots in the R-12 through R-28 zones to utilize the less restrictive dimensional requirements of the R-8 zone.
- Addition of definitions for the terms 'social services' and 'dwelling';
- Inclusion of an administrative variance to the manufactured home age restrictions so that relief from the age restriction may be granted by the Community Development Director rather than the Hearing Examiner when site circumstances support such relief. The intent of this provision is to minimize applicant and staff time and financial expense for a relatively simple type of variance;
- Clarification of the Planned Residential Development (PRD) open space requirements;
- Inclusion of new standards to restrict shipping containers on residential lots to those lots that are over one acre in size, and to require screening for shipping containers in any zone in which they may be located (*commercial and industrial zones already require screening, but this provision makes it clearer*); and
- Addition of a footnote to the residential permitted uses matrices to clarify that residential accessory structures may only be established as dwellings if they meet the criteria for an accessory dwelling unit.



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

PC Recommendation – Proposed 2016 Code Clean-Up Amendments

The Planning Commission (PC) of the City of Marysville, having held a public hearing on February 14, 2017 in review of NON-PROJECT action amendments of the Marysville Municipal Code, proposing amendments to Title 22, *Unified Development Code*, including, but not limited to, the following development regulations: flags and flagpoles regulations; SFR/duplex/townhouse minimum parking spaces; duplex dimensional standards; social services, dwelling, sign, and flagpole definitions; manufactured home age administrative deviation; shipping containers standards; residential accessory structures clarifications; and PRD open space clarifications. Having considered the exhibits and testimony presented, PC does hereby enter the following findings, conclusions and recommendation for consideration by the Marysville City Council:

FINDINGS:

1. The Community Development Department held a public meeting to introduce the NON-PROJECT action Code Clean-Up Amendments to the community on November 22, 2016.
2. The proposal was submitted to the State of Washington Department of Commerce for 30-day expedited review on January 30, 2017, in accordance with RCW 36.70A.106.
3. The PC held public work sessions to review the NON-PROJECT action amendments proposing adoption of the NON-PROJECT action 2016 Code Clean-Up amendments as described above, on November 22, 2016, January 10, 2017, and January 24, 2017.
5. The PC held a duly-advertised public hearing on February 14, 2017 and received testimony from city staff and the public.
6. At the public hearing, the PC reviewed and considered the 2016 Code Clean-Up Amendments.

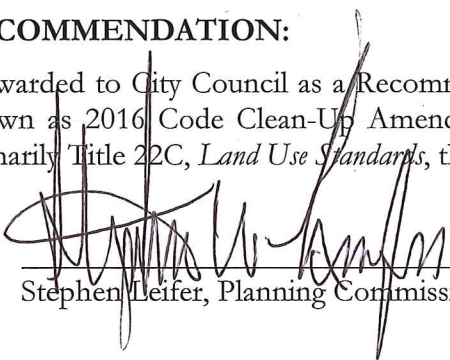
CONCLUSION:

At the public hearing, held on February 14, 2017, the PC recommended **APPROVING** the 2016 Code Clean-Up Amendments.

RECOMMENDATION:

Forwarded to City Council as a Recommendation of **APPROVAL** of the NON-PROJECT action known as 2016 Code Clean-Up Amendments, an amendment to the Marysville Municipal Code, primarily Title 22C, *Land Use Standards*, this **February 14, 2017**.

By:


Stephen Leifer, Planning Commission Chair

PLANNING COMMISSION



MINUTES

November 22, 2016

7:00 p.m.

City Hall

CALL TO ORDER

Chair Leifer called the November 22, 2016 meeting to order at 7:00 p.m. noting the excused absence of Tom Thetford.

Marysville

Chairman: Steve Leifer

Commissioners: Roger Hoen, Jerry Andes, Kay Smith, Kelly Richards, Brandon Whitaker

Staff: Community Development Director Dave Koenig, Senior Planner Angela Gemmer

Absent: Tom Thetford

APPROVAL OF MINUTES

November 9, 2016

Motion made by Commissioner Richards, seconded by Commissioner Smith, to approve the November 9 Meeting Minutes as presented. **Motion** passed unanimously.

AUDIENCE PARTICIPATION

Chair Leifer noted that there was no one present in the audience.

NEW BUSINESS

MMC Chapter 11.52 Commute Trip Reduction Update

Angela Gemmer explained that this is an update to Marysville's Commute Trip Reduction Ordinance. The object is to reduce single-occupant vehicle trips to reduce congestion and pollution. The State is the entity that has adopted this law, but the City

contracts with Community Transit (CT) to administer the program. CT would like to synchronize the ordinances between the various jurisdictions they coordinate with. This is basically reformatting what the City presently has. The main change is from annual reporting to quarterly reporting. Another change is to move from biennial surveys to a rideshareonline.com (RSO) system. Other changes involve elimination of several definitions that are no longer relevant to the program, modification to several definitions, inclusion of voluntary worksites in the ordinance, and changes in the names of different terms.

Commissioner Whitaker asked how many staff members are dedicated to administering this program. Ms. Gemmer replied it is just her. Commissioner Whitaker asked which site has more than 100 people showing up within three hours in the morning. Senior Planner Gemmer replied it is the Public Works and Community Development campus. Commissioner Whitaker asked if there are a lot of voluntary programs. Ms. Gemmer replied that there are not at this time, but there may be in the future.

Commissioner Hoen expressed a concern with the CT bus system. He noted that low income or no income people who are trying to get around the community can't get a transfer if they don't have an Orca card. This seems unfair to him. Senior Planner Gemmer stated they would pass that concern along to Community Transit.

Chair Leifer referred to the proposed format, page 9, where it talks about additional elements that can be implemented as needed. He asked how "as needed" would be determined. Senior Planner Gemmer explained that generally speaking if people are doing the things that are expected (obtaining training, notifying employees of their programs, and collecting data), but still aren't meeting the target it is acceptable since it is a program based on good faith effort. If someone is lacking progress they might be encouraged to take extra steps to adopt other techniques to improve progress.

Chair Leifer referred to page 11, D (2), and asked what "undue hardship" would be. Chair Leifer referred to the potential penalties and noted that a "good faith effort" and "undue hardship" appear to be somewhat subjective and could cause an issue in the future. Senior Planner Gemmer noted that the penalties language is part of the existing ordinance. Her experience is that they focus on positive solutions. She explained that the expectations for a good faith effort are fairly minimal and include six hours of training a year for the administrator, holding a transportation fair, completing surveys, and distributing information.

Commissioner Andes asked how many people in the Public Works building are currently carpooling. Senior Planner Gemmer replied that she is aware of only a couple. She noted that the flex work schedules contribute toward the reduction in trips. She commented that reducing trips is generally a challenge in North Snohomish County.

Chair Leifer asked for more information on the table on page 4 of the Plan. Senior Planner Gemmer replied this is an illustration of how the program has performed for 26,000 employees in eight South Snohomish County jurisdictions and the City of Bothell specifically. They are only identifying the non-drive alone trips. Chair Leifer noted that

this represents about 5% of people. Director Koenig commented that Community Transit has a large number of commuter vans. They are actually the second largest provider of ride sharing vans in the country. There are also businesses that have come up with their own solutions.

Chair Leifer then referred to the Barriers to Achieving Goal section at the bottom of page 9 and noted that one of the barriers is the availability of abundant free parking in the area. He then referred to page 11 on the sixth paragraph where it talks about Marysville's responsibility to make sure the CTR program is consistent with the Comprehensive Plan. He asked if they need to take a look at the Comprehensive Plan to see how it coincides with this comment about excess parking being a barrier to the program. Senior Planner Gemmer said she doesn't recall much in the Comprehensive Plan about parking as it relates to these goals. She thinks in general it is consistent with the goals of the CTR program. She noted she would take a closer look at this.

Commissioner Hoen commented that the State used to provide free bus passes for its employees. He asked if Marysville does this. Senior Planner Gemmer replied that there is currently a small monetary incentive, but she doesn't think anyone has taken advantage of that.

Code Amendments (Part 1)

Senior Planner Gemmer stated that this batch of code amendments is the first of several amendments that staff will be presenting. These are items staff has observed that are inconsistent with the code or that need to be amended to clarify code, or to streamline the process.

Amendment 1 – This provides clarification on parking expectations for single-family residences, duplexes, townhouses, and mobile homes.

Amendment 2 – This would clarify that the entity that grants licensure for radio frequency analysis is the Federal Communications Commission (FCC) and not the State of Washington. This would allow a broader group of engineers to submit those reports.

Chair Leifer asked if the FCC reviews all of the items. Senior Planner Gemmer stated that the City does the review. This would just clarify the credentials the engineer would need to do the analysis.

Amendment 3 - This would bring consistency between Permitted Uses matrices and the Density and Dimensional matrices for minimum lot sizes for duplexes in the Single Family, Medium Density Zone (R-4.5).

Chair Leifer referred to the Suggested Code Amendment on page 5 and asked if this means that they need to build to the maximum density. Senior Planner Gemmer replied that it does not. Some jurisdictions have a minimum and maximum, but Marysville does not. It would just afford a little more flexibility.

Amendment 4 – This is for single family and duplex uses that occur in multifamily zones. This would allow duplexes to benefit from using the lesser setbacks that a single family residence would use if it were built in a multifamily zone.

Chair Leifer asked if this was similar to LDMRs. Director Koenig explained that LDMRs were higher density single family units with reduced setbacks. Senior Planner Gemmer noted that there is one in Marysville that turned out pretty nice, but it has bigger setbacks than required.

Amendment 5 – This adds a new definition for *social services*.

Amendment 6 – This would allow administrative variances to the age requirements for manufactured homes. The City has issued a couple variances over the past couple years, and they had to go to the Hearing Examiner. This would minimize staff's and the applicant's time and reduce the expense of processing a variance. It would still uphold the expectation that someone in a standard subdivision would need to put in a newer home. The intent is to reduce hardship to people where it's not impacting neighbors negatively.

Chair Leifer commented that it seems very difficult to meet all the conditions on page 7 under item c. Senior Planner stated that the goal isn't to make the criteria easy to meet making these variances widely available, but rather to make it easier to obtain and process the variance if a property is eligible.

CITY COUNCIL AGENDA ITEMS AND MINUTES

ADJOURNMENT

Motion made by Commissioner Smith, seconded by Commissioner Richards, to adjourn the meeting at 8:00 p.m. **Motion** passed unanimously.

NEXT MEETING:

December 13, 2016



Laurie Hugdahl, Recording Secretary

PLANNING COMMISSION



MINUTES

January 10, 2017

7:00 p.m.

City Hall

CALL TO ORDER

Chair Leifer called the January 10, 2017 meeting to order at 7:00 p.m.

Marysville

Chairman: Steve Leifer

Commissioners: Roger Hoen, Jerry Andes, Kay Smith, Kelly Richards, Brandon Whitaker

Absent: Commissioner Tom Thetford (excused)

Staff: Community Development Director Dave Koenig, Senior Planner Angela Gemmer, Senior Planner Cheryl Dungan, Project Engineer Ryan Morrison, Surface Water Specialist Mathew Eyer

APPROVAL OF MINUTES

December 13, 2016

Commissioner Richards noted he would be abstaining from the vote as he was not present at the December 13 meeting.

Motion made by Commissioner Hoen, seconded by Commissioner Andes, to approve the December 13, 2016 Meeting Minutes. **Motion** passed (5-0) with Commissioner Richards abstaining.

AUDIENCE PARTICIPATION

Evan Kaiser, 2910 73rd Avenue NE, Marysville, WA, commented that when information is submitted to the Planning Commission all the pertinent documents should be submitted. He suggested that the Planning Commission conduct research on what other cities are doing when working on their codes. He asked if he could send emails to the

Planning Commission through Janis at the Planning Department and expect a reply in a reasonable time period. Chair Leifer replied that would be appropriate.

PUBLIC HEARING

A. City of Marysville – Water System Plan

Project Engineer Ryan Morrison made a PowerPoint presentation reviewing the Water System Plan Update.

Chair Leifer asked about adequate pressures for fire suppression equipment in the area north of 116th up to 152nd as referred to in his discussions with the fire marshal. His understanding is that there is still an issue with adequate pressure and fire flow. Project Engineer Morrison said he wasn't aware of any broad low pressure issues or fire flow issues in that area. Chair Leifer commented he heard there is a marginal amount of flow available. Project Engineer Morrison reviewed fire flow requirements and data and explained that the consultant highlighted deficiencies as part of the Water Plan but that area was not highlighted. Chair Leifer asked about the commercial industrial area. Project Engineer Morrison reviewed the commercial fire flow requirements. Chair Leifer summarized that the maximum they can get out of these is 2000 gpm, but the requirement is 2500 gpm. Project Engineer Morrison explained that the maximum is calculated per port, but it is expected that there will be multiple hydrants which makes it workable.

Commissioner Hoen expressed concern about involvement of water drawing agencies in the water system plan update. Project Engineer Morrison replied that all the surrounding jurisdictions as well as the Department of Health have copies of this Plan and are invited to review and comment. This is the same for other jurisdictions. They are also in communication with the Fire Department about the fire flow.

Commissioner Hoen asked about the status of the water lines in the City. Project Engineer Morrison replied that most of the water main is ductile iron, but some of it is asbestos cement or cast iron. Asbestos cement is the oldest portion. This is on a schedule for maintenance as part of the renewals and replacement. They are replaced depending on prioritization and budgeting. Commissioner Hoen asked if available water for the system was predicted to be adequate through 2036. Project Engineer Morrison affirmed that it is.

Commissioner Richards asked if the Sunnyside Well will relieve the city of the need for Everett water. Project Engineer Morrison replied that it will not, and the City will want to keep that intertie in place. Commissioner Richards suggested talking to Everett about stopping adding fluoride to the water.

The public hearing was opened at 7:20 for public testimony. Hearing no comments, the hearing was closed at 7:20 p.m.

Commissioner Hoen noted that there are several areas that are expanding in Lakewood. He asked if staff believes there is adequate water planned to get water to the new facilities. Project Engineer Morrison affirmed that there is.

Motion made by Commissioner Richards, seconded by Commissioner Smith, to forward this item to Council with a recommendation for approval. **Motion** passed unanimously (6-0).

B. City of Marysville – Surface Water Comprehensive Plan

Surface Water Specialist Matthew Eyer made a presentation reviewing the Surface Water Comprehensive Plan Update. He explained that there are 25 projects identified as needed in the future. Five major projects have been identified for the next six years: Historic Downtown Green Retrofit Study, Culvert Removal and Bridge Installation along Quilceda Creek at State Avenue, Water Quality Treatment Facility at Downtown Marina Outfall, Conveyance for Regional Pond 2, and Edgecomb Creek Regional Detention Facility. The simplified financial review showed that the 2% annual rate increase will cover the operating increase, but not the capital projects.

Commissioner Hoen asked if the impact fees are adequate. Senior Planner Gemmer stated that impact fees are not expected to cover all expenses. Other funding mechanisms help finance projects.

Chair Leifer asked about the area near 152nd near the Edgecomb detention pond. He asked if the total anticipated volume has taken into account the requirements for Low Impact Development and that a portion of the water will be going into the ground. Surface Water Specialist Matthew Eyer stated that would be taken into consideration going forward with any new pond. Staff hasn't looked into how a new pond would look under the new manual. As it currently stands, the pond is designed to take all the water from all the sites.

Chair Leifer asked about money for realignment of Edgecomb Creek. He asked if a route has been established. Surface Water Specialist Matthew Eyer clarified it was Hayho Creek which is the barrier, not Edgecomb. Edgecomb Creek has some theoretical language in the Comprehensive Plan about the potential realignment. Senior Planner Dungan explained that Otak developed a plan on possibilities for that. She explained that during the recession a lot of the properties went back to the banks. The City backed away from this due to lack of interest from the property owners and is no longer pursuing it at this time.

The public hearing was opened at 7:41 for public testimony. Hearing no comments, the hearing was closed at 7:41 p.m.

Motion made by Commissioner Andes, seconded by Commissioner Richards, to forward this item to Council with a recommendation for approval. **Motion** passed unanimously (6-0).

NEW BUSINESS

A. Code Amendment – Flagpoles

Senior Planner Gemmer reviewed the proposed amendments to how the City deals with flags and flagpoles. She reviewed background on this item and explained that the majority of Washington jurisdictions researched are silent on flagpole regulations with the exception of Spokane. Staff is proposing regulations adapted from Spokane's. She reviewed three different options for flagpole definitions. She also reviewed other proposed changes.

There were clarification questions regarding the language under 22C.010.220 Height-Exceptions to limits (3). Staff noted they would review the language for clarifications.

Commissioner Richards asked how tall a flagpole could be on top of his house. Director Koenig replied they would look into that, but currently it would be as high as the zone allows.

Commissioner Andes referred to the proposed language for setbacks and suggested they just keep it the same as the property setbacks. Senior Planner Gemmer indicated they could, but noted that some setbacks are much bigger, up to 20 feet. Commissioner Andes recommended keeping it the same as building setbacks to keep it simple.

Commissioner Hoen asked about vertical sail-type flags that he has seen around which are used for advertising. Senior Planner Gemmer replied that those are generally prohibited in the code and present an ongoing code enforcement issue. They are considered signs, not flags.

Chair Leifer referred to item 11 under 22C.160.180 Exemptions in the Sign Code and stated he would like to see preference given to the United States flag by giving it an additional height allowance above and beyond all others. Director Koenig commented that the intent is not to get into regulating college flags, 12th man flags, etc. The etiquette of flags requires that the US flag is to be flown on top above all others. Language relating to this can be added.

Commissioner Richards agreed with the standard regarding the US flag, but noted that people will use this as a statement. Senior Planner Gemmer suggested getting legal guidance on whether or not this is something that can be regulated.

B. 2017-2022 - - Draft Capital Facilities Plan

Senior Planner Dungan introduced the Capital Facilities Plan for 2017-2022 as contained in the Planning Commission packet.

Commissioner Whitaker asked how the projects are prioritized. Senior Planner Dungan stated that there is a rating system within the City's database to help determine this. The plan is changed every two years in response to changes in these priorities.

Commissioner Whitaker asked what is behind the justification for moving forward with the project. Senior Planner Dungan replied that they are policies and goals that are outlined in the Comprehensive Plan and through the Growth Management Act. Commissioner Whitaker asked how estimates are made for construction of projects that are out in the future. Senior Planner Dungan replied that they are based on best case estimates.

Commissioner Richards noted that some of these are budgeted for, but some are not. Senior Planner Dungan explained that they will be depending on grant funding for a lot of things.

Commissioner Hoen noted that sidewalks continue to be discussed as something that is lacking in the City. He asked if there is part of a plan that says we are going to do a certain amount of sidewalks. Senior Planner Dungan replied that there is an allowance for sidewalks in the maintenance code. In the zoning code under residential density incentives there are additional bonus credits given to developers if they do off-site sidewalk improvements. Senior Planner Gemmer commented that with any new projects there is an expectation that frontage improvements will be done. Moving forward the situation should be improving. Also, in the existing Transportation Plan which was adopted in 2015 there is prioritization of where the City wants sidewalks constructed.

Chair Leifer referred to the potential options for improvements around Geddes Marina and asked if the third one assumes that the previous ones were completed. Senior Planner Dungan explained that there are steps that need to be completed. Cleanup of the site is the first step. The park will likely be constructed in phases as funding allows. Director Koenig explained that this reflects the Council's direction relating to the budget. Senior Planner Dungan commented that the Capital Facilities Plan as presented was adjusted to address Council's wishes related to budget discussions.

Chair Leifer commented that it appears that the improvements to Public Works would allow the existing building to be utilized by other uses, and a new facility for Public Works would be constructed. Director Koenig didn't think there was a new facility or expansion planned for Public Works. Senior Planner Dungan commented that Sanitation is relocating some of their trucks onto the old mill site that is adjacent.

Chair Leifer asked if Public Safety is the planned site for the new facility. Director Koenig commented that they don't have a site yet for the new facility, but there are also some fire uses there. He noted that this project is complicated by the Regional Fire Authority issue right now.

Commissioner Andes asked if water and road improvements would be done at the same. Senior Planner Dungan replied that typically they would be, but noted that someone from Public Works will be present at the hearing to answer questions.

Motion made by Commissioner Richards, seconded by Commissioner Andes, to schedule this for a public hearing. **Motion** passed unanimously (6-0).

CITY COUNCIL AGENDA ITEMS AND MINUTES

ADJOURNMENT

Motion made by Commissioner Smith, seconded by Commissioner Richards, to adjourn the meeting at 8:28 p.m. **Motion** passed unanimously (6-0).

NEXT MEETING:

January 24, 2017



Angela Gemmer, Senior Planner, for
Laurie Hugdahl, Recording Secretary

PLANNING COMMISSION



MINUTES

January 24, 2017

7:00 p.m.

City Hall

CALL TO ORDER

Chair Leifer called the January 24, 2017 meeting to order at 7:00 p.m.

Marysville

Chairman: Steve Leifer

Commissioners: Jerry Andes, Kay Smith, Kelly Richards, Brandon Whitaker

Staff: Community Development Director Dave Koenig, Planning Manager Chris Holland, Senior Planner Cheryl Dungan, Senior Planner Angela Gemmer, City Engineer Jeff Laycock

Absent: Roger Hoen, Tom Thetford (excused)

APPROVAL OF MINUTES

January 10, 2017

Commissioner Smith noted that on Page 1, "Gemmer" needs to be added to Angela's name.

Commissioner Richards added that on Page 2, in the second paragraph from the bottom, "Well" was not spelled correctly

Motion made by Commissioner Smith, seconded by Commissioner Richards, to approve the January 10, 2017 Meeting Minutes with the two corrections as noted above. **Motion** passed unanimously (5-0).

AUDIENCE PARTICIPATION

None

PUBLIC HEARING

A. 2017-2022 DRAFT Capital Facilities Plan

Senior Planner Dungan indicated staff did not have any additional information on this. She stated that staff is recommending approval of the Capital Facilities Plan and forwarding it for Council approval.

Chair Leifer stated that his only question was regarding prioritization of the projects. City Engineer Laycock explained that a lot of projects are identified in other Plans. They are also prioritized as far as the funding and grants that might be available. Related projects can also make other projects a priority.

Commissioner Andes referred to a transportation project on State Avenue from 100th to 116th and a water project from 112th to 116th and asked if those projects would be constructed at the same time. City Engineer Laycock said they would be done at the same time, but they are funded from different accounts so they are listed separately.

The public hearing was opened at 7:07 p.m. and public testimony was solicited. There was none. The hearing was closed at 7:08 p.m.

Motion made by Commissioner Richards, seconded by Commissioner Smith, to forward the Capital Facilities Plan on to City Council with a recommendation for approval. **Motion** passed unanimously (5-0).

OLD BUSINESS

A. Code Amendment – Flagpoles

Senior Planner Gemmer explained that at the last meeting there were concerns about the height allowance above the height in the zone and the proposed setback requirements. The revision is that the flag pole may rise ten feet above the height limit or five feet above the highest point of the roof, whichever is greater. For uncovered accessory structures (such as radio antennae and dishes, mechanical equipment, play structures and tennis courts) flagpoles would be allowed to project to the property line in the side and the rear yard, but in the front yard they would observe the general setback for the zone which is 20 feet. For accessory structures that are more pole-like in nature such as flag poles and lamp posts, the setback would be five feet from the property line. They would have to be located outside of a utility or access easement, and any flag may not be displayed in a manner that would cause an encroachment or neighborhood issue. Staff is also eliminating the references to flags in the Sign Code.

Commissioner Andes thought that the new proposed setbacks made sense.

Chair Leifer asked what the maximum height in the single family zones is typically. Senior Planner Gemmer replied it is typically 30 feet.

Commissioner Andes asked if this would be addressed differently in commercial zones. Senior Planner Gemmer replied that there is not a height restriction for commercial zones. In a commercial zone, a flagpole would only be restricted to comply with FAA regulations.

Commissioner Whitaker asked what will happen with existing flagpoles that don't meet these regulations. Planning Manager Holland explained they would be grandfathered in.

Chair Leifer asked about the verbiage on permitting flag poles. Planning Manager Holland replied that it is outlined in the IBC and IRC and it is considered an accessory structure requiring a permit. Staff would issue an over-the-counter permit to be installed per the manufacturer's specifications. On commercial applications, it would take a little more engineering.

Chair Leifer referred to comments from Mr. Kaiser and asked for confirmation that staff would depend on the manufactures' recommendations for installation or, in the absence of that, require that calculations be done based on the size of the flag poles. Director Koenig confirmed that the building official would make that determination. There was discussion about flagpoles and manufacturers' recommended flag sizes.

There was consensus from the Planning Commission to schedule this item for a public hearing.

NEW BUSINESS

A. Code Amendment – Accessory Structure Provisions

Senior Planner Gemmer explained that this would restrict shipping containers to residential properties that are over an acre in size and require that they be placed behind screening, fencing, or landscaping. In commercial and industrial zones, they would be subject to the screening provisions that are already applicable to storage.

Senior Planner Gemmer then explained that there have been concerns about people converting parts of houses into living spaces that don't meet the definition of dwelling unit and result in sub-par living situations. The proposed code would define "dwelling" as a shelter in which a person or people live and require a dwelling to comply with accessory dwelling unit standards.

Commissioner Whitaker asked if the concerns have come mainly from code enforcement staff or public complaints. Planning Manager Holland explained that they have come from both sources.

Commissioner Richards asked where the minimum size of one acre came from for shipping containers. Senior Planner Gemmer replied one acre is the threshold at which the general residential accessory structure provisions would apply. Senior Planner Holland explained that this would not preclude someone from coming in and requesting a deviation.

Commissioner Richards asked about temporary moving containers that people bring in when they are moving. Community Development Director Koenig replied that this would not apply to temporary containers or pods, which are addressed on a case-by-case basis.

A. Code Amendment – PRD Open Space

Senior Planner Gemmer explained that this is to clarify the expectations about how much open space is required in a Planned Residential Development. This would clarify that 65% of the open space requirement can be satisfied with critical areas and buffers.

Chair Leifer asked where required yards fit in to the equation. Planning Manager Holland replied that a yard on your lot would not count toward your overall open space requirement, which must be a shared open space area.

DIRECTOR'S COMMENTS

Director Koenig had the following updates:

- In the 2017 Budget, Code Enforcement is being moved to the Police Department. There is a new group within the Police Department that will be called Community Services. There will also be a new working sergeant doing enforcement along with the Code Enforcement Officer and Community Resource Officer. There will also be some staffing related to park security issues. The desire of the Council was to put more emphasis on code enforcement. This transition will be happening over the next couple months.
- The City has purchased the Welco property in order to open up the community to the river more. There is one office building there which police will be using for the time being. Over time the City wants to open up the water front to spur on redevelopment of the downtown area.

Planning Manager Holland added that City Engineer Jeff Laycock submitted a shoreline permit today for a trail going from the boat launch underneath the bridge.

COMMISSIONERS COMMENTS

Commissioner Andes asked about the Quilceda Auto Wrecking building. Planning Manager Holland wasn't sure, but said it looked like they were cleaning it up. He indicated he would look into it. Director Koenig thought that the City might be interested in that site related to State Avenue improvements. He noted that they studied it and didn't find any contamination. He commented that the City will need an area for mitigation when State Avenue is expanded for storm drainage.

CITY COUNCIL AGENDA ITEMS AND MINUTES

ADJOURNMENT

Motion made by Commissioner Richards, seconded by Commissioner Whitaker, to adjourn the meeting at 7:46 p.m. **Motion** passed unanimously.

NEXT MEETING:

February 14, 2017

 for

Laurie Hugdahl, Recording Secretary

PLANNING COMMISSION



MINUTES

February 14, 2017

7:00 p.m.

City Hall

CALL TO ORDER

Chair Leifer called the February 14, 2017 meeting to order at 7:00 p.m.

Marysville

Chairman: Steve Leifer

Commissioners: Roger Hoen, Jerry Andes, Kay Smith, Kelly Richards, Brandon Whitaker

Staff: Community Development Director Dave Koenig, Senior Planner Angela Gemmer

Absent: Tom Thetford (excused)

APPROVAL OF MINUTES

January 24, 2017

Motion made by Commissioner Richards, seconded by Commissioner Smith, to approve the January 24, 2017 Meeting Minutes as presented. **Motion** passed unanimously (6-0).

AUDIENCE PARTICIPATION

None

PUBLIC HEARINGS – CODE AMENDMENTS

Senior Planner Gemmer explained that these are the same amendments as proposed at the January 24 work session. On February 13 staff received email comments from Evan Kaiser which were distributed to the Planning Commission. Staff is proposing some changes based on Mr. Kaiser's comments. She reviewed the following concerns and staff's responses:

- One concern raised by Mr. Kaiser was that the proposed definition of flagpole discussed at the prior workshop did not address what would happen if the flag was not hanging from a flagpole. In order to remedy that concern, staff is recommending a change in the definition of a flagpole to state a flagpole means, "a tall pole on which a flag is or can be displayed," to address that concern.
- A question was raised as to whether or not a flag could be regulated as sign. Staff's position is that the City will not regulate the content of flags just as they do not regulate the content of signs as a result of a Supreme Court ruling.
- Another concern was that there is no definition of "flag" given in the code. Senior Planner Gemmer stated that there is a common understanding of what a flag is. Not every term that is contained in the code has a specific definition. Where there is an absence of a specific definition in the zoning code, the conventional dictionary and common understanding is what would be used.
- Another concern was raised regarding temporary and special event signs. She explained that the sign code is intended to regulate commercial content.
- There was a concern about the potential for obscene material to be displayed; however, federal law prohibits this.
- Another concern is that radio antennas are listed as something that can project to the property line in the back yard and side yard. This is in conflict with a provision in the wireless code. Staff is proposing to strike the reference to radio dishes and antennas in the projection section in order to eliminate any conflict in the codes.
- Another concern related to the terms *accessory apartment* and *accessory dwelling units*. These are interchangeable terms in the code, but staff may choose to make consistent in the future.
- Another concern related to changes made in setbacks from the original version and the more recent version of the code amendments. She explained that this was amended in response to Planning Commission discussion.

Commissioner Whitaker asked if the items staff is proposing to change are already included in the draft. Senior Planner Gemmer distributed a copy of the two proposed changes staff had drafted today in response to the email received from Mr. Kaiser yesterday. Community Development Director Koenig summarized the two changes as:

1. Clarification of the definition of "flagpole"
2. Under residential setbacks, taking out radio antennas and dishes in the projection section

Chair Leifer reiterated the proposed changes and solicited comments from the Planning Commission. There appeared to be consensus regarding the proposed amendments.

Chair Leifer opened the public hearing related to code amendments, items A-G at 7:19 p.m.

A. Flags and flagpoles

Public Testimony:

Evan Kaiser, 2910 73rd, Avenue NE, Marysville, WA stated that most of his concerns have been corrected by staff's proposed new changes; however, he had the following comments:

- He stated he still sees no need to have a 30-40 foot high flagpole in a residential area.
- He is fine with the flagpole definition.
- Regarding regulating the content of a flag, he expressed concern about businesses flying their flags in residential areas. He spoke in support of the old definition of flags. He expressed concern that people could still put up objectionable things even if they are not obscene.
- He referred to his email and said that they could ignore the comments about signs.
- He expressed concern about the staff response from Gloria Hirashima dated February 3, 2017.
- He asked about regulations that govern signs in residential neighborhoods.
- He asked why the city would want to have anything that encroaches into setbacks. He thinks the whole section should be reconsidered. He expressed concern about the ability to put a 70-foot high antenna right on the property line.

Director Koenig reviewed the dictionary definition of a flag which would apply in this case. He noted that not everything in the code needs to be defined.

Senior Planner Gemmer noted that within the sign code there are regulations related to limitations on signs in residential zones. With regard to the concerns about setbacks, she noted that the one of the main reasons for setbacks is fire safety. Some of the things that are listed as exemptions from setback requirements really don't raise large fire safety concerns.

Chair Leifer asked if a flag could have some message on it conveying business-type information related to a home occupation business. Director Koenig commented that flags are not typically used as signs because they are not visible all the time. This has not been an issue that the City has dealt with. He commented that they could adopt a definition of sign if desired by the Planning Commission. He noted that the US Supreme Court made a decision that cities could not regulate the content of signage. Staff's intent is to define a flag as a flag and not a sign.

Mr. Kaiser stated he doesn't think the code would prohibit any business from putting a flag up on a residential flag pole.

Commissioner Hoen referred to POW flags and asked where that would fit in. Director Koenig thought that it would fall under the definition of a flag.

Commissioner Richards clarified that the Planning Commission just recommends to City Council what they think should be done. The City Council is the body that actually makes the decisions.

- B. Minimum required parking spaces
- C. Duplex dimensional standards
- D. "Social Services" definition
- E. Manufactured homes – administrative deviation
- F. Accessory structure provisions - "Dwelling" definition and compliance with accessory dwelling unit provisions; Cargo/shipping container allowances
- G. PRD Open Space

Motion made by Commissioner Richards, seconded by Commissioner Smith, to forward the code amendments listed as items A-G to City Council with the changes to the flagpole amendments as recommended by staff tonight. **Motion** passed unanimously (6-0).

Chair Leifer referred to Mr. Kaiser's concerns about regulating the content on flags and commented that the Planning Commission was not in support of recommending against a ruling by the Supreme Court. His understanding was that the City would be in direct defiance of that ruling if they tried to regulate the content. Director Koenig commented that staff would clarify this understanding with the City Attorney.

The public hearing was closed at 7:50 p.m.

CITY COUNCIL AGENDA ITEMS AND MINUTES

STAFF COMMENTS

Staff provided a copy of a request from a citizen related to a potential amendment regarding home occupation standards. Director Koenig summarized the request where someone wanted to sell merchandise from their home and commented that staff is not in support of the change. Senior Planner Gemmer explained that the current code states that sales are limited to merchandise which is produced on the premises or telephone or online sales with offsite delivery.

Commissioner Hoen raised a concern about artists being allowed to sell their art from their home. Director Koenig clarified that if you make something at home you can sell it at home, and staff's interpretation is that includes are.

ADJOURNMENT

Motion made by Commissioner Andes, seconded by Commissioner Whitaker, to adjourn the meeting at 7:57 p.m. **Motion** passed unanimously.

NEXT MEETING:

March 14, 2017



Chris Holland, Planning Manager for
Laurie Hugdahl, Recording Secretary

CITY OF MARYSVILLE
Marysville, Washington
ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, UPDATING
THE CITY'S DEVELOPMENT REGULATIONS AND AMENDING SECTIONS
22A.020.050, 22A.020.070, 22A.020.200, 22C.010.060, 22C.010.070,
22C.010.090, 22C.010.210, 22C.010.220, 22C.020.060, 22C.020.070,
22C.020.190, 22C.130.030, 22C.160.080, 22G.080.100, AND 22A.010.160
OF THE MARYSVILLE MUNICIPAL CODE.**

WHEREAS, the State Growth Management Act, Chapter 36.70A RCW mandates that cities periodically review and amend development regulations, including 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, during public meetings on November 22, 2016, January 10, 2017, and January 24, 2017, the Planning Commission discussed proposed amendments to MMC Sections 22A.020.050, 22A.020.070, 22A.020.200, 22C.010.060, 22C.010.070, 22C.010.090, 22C.010.210, 22C.010.220, 22C.020.060, 22C.020.070, 22C.020.190, 22C.130.030, 22C.160.080, 22G.080.100, and 22A.010.160; and

WHEREAS, the City of Marysville has submitted the proposed development regulation revisions to the Washington State Department of Commerce on January 30, 2017, as required by 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);

WHEREAS, after providing notice to the public as required by law, on February 14, 2017, the Marysville Planning Commission held a Public Hearing on the proposed amendments to the City's development regulations; and

WHEREAS, on February 14, 2017 the Planning Commission made a Recommendation to the City Council recommending the adoption of the proposed amendments to MMC Sections 22A.020.050, 22A.020.070, 22A.020.200, 22C.010.060, 22C.010.070, 22C.010.090, 22C.010.210, 22C.010.220, 22C.020.060, 22C.020.070, 22C.020.190, 22C.130.030, 22C.160.080, 22G.080.100, and 22A.010.160; and

WHEREAS, at a public meeting on March 13, 2017 the Marysville City Council reviewed and considered the Planning Commission's Recommendation and proposed amendments to the development regulations; and

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

Section 1. Approval of Planning Commission's Recommendation and Adoption of Findings and Conclusions. The Planning Commission's February 14, 2017 Recommendation regarding the proposed development regulation amendments, including the Findings and Conclusions contained therein, as set forth in the attached **Exhibit "A"**, is hereby adopted and incorporated herein by this reference.

Section 2. Required Findings. In accordance with MMC 22G.010.520, the following findings are made regarding the development regulation amendments which comprise this ordinance:

- (1) The amendments are consistent with the purposes of the comprehensive plan; and
- (2) The amendments are consistent with the purpose of Title 22 MMC; and
- (3) There have been significant changes in the circumstances to warrant a change; and
- (4) The benefit or cost to the public health, safety, and welfare is sufficient to warrant the action.

Section 3. Section 22A.020.050, "D" definitions, of the Marysville Municipal Code is hereby amended by adding a new definition to read as follows:

"Dwelling" means a shelter in which a person or people live.

Section 4. Section 22A.020.070, "F" definitions, of the Marysville Municipal Code is hereby amended by adding a new definition to read as follows:

"Flagpole" means a tall pole on which a flag is or can be displayed.

Section 5. The definition of "sign" as contained in Section 22A.020.200, "S" definitions, of the Marysville Municipal Code is hereby amended to read as follows:

"Sign" means any device, fixture, or placard that is visible from a public right-of-way or surrounding properties and uses graphics, symbols, logos, or written copy conveying a message or image and used to inform or attract the attention of the public, such as advertising or identifying an establishment, product, goods, service or activity. A sign may have multiple faces and advertise multiple on-premises establishments, businesses, products, services, or activities. This definition does not include any flag ~~of any country, state or local jurisdiction~~. Unless the context clearly provides to the contrary, a "sign" as used in this chapter also includes the "sign structure."

Section 6. Section 22A.020.200, "S" definitions, of the Marysville Municipal Code is hereby amended by adding a new definition to read as follows:

"Social services" means public or nonprofit establishments, organizations or agencies that provide counseling, therapy or other social or human services to persons needing such services due to physical, mental, emotional, or other disabilities.

Section 7. Section 22C.010.060, Permitted uses, of the Marysville Municipal Code is hereby amended to read as follows:

Specific Land Use	R-4.5	R-6.5	R-8	WR R-4-8	R-12	R-18	R-28	WR R-6-18	R-MHP
Residential Land Uses									
Dwelling Units, Types:									
Single detached (14)	P11	P11	P11	P11	P11	P11	P11	P11	P43
Model home	P30	P30	P30	P30	P30	P30	P30	P30	P30
Cottage housing	C6	C6	C6	C6	C6	C6	C6	C6	
Duplex (14)	C8	P8	P8	P8	P	P	P	P	
Townhouse	P3	P3	P3	P3	P	P	P	P	
Multiple-family					P	P	P	P	
Mobile home	P12	P12	P12	P12	P12	P12	P12	P12	P12
Mobile/manufactured home park	P3	P3	P3		C	P	P		P45
Senior citizen assisted	C2	C2	C2	C2	C2	C2	C2	C2	C2
Factory-built	P7	P7	P7	P7	P7	P7	P7	P7	P7, 43
Recreational vehicle									P44
Group Residences:									
Adult family home	P	P	P	P	P	P	P	P	P
Convalescent, nursing, retirement	C2	C2	C2	C2	C2	C2	C2	C2	
Residential care facility	P	P	P	P	P	P	P	P	
Master planned senior community (15)	C	C	C	C	C	C	C	C	C
Accessory Uses:									

Specific Land Use	R-4.5	R-6.5	R-8	WR R-4-8	R-12	R-18	R-28	WR R-6-18	R-MHP
Residential accessory uses (1), (9), (10), (49), (50)	P	P	P	P	P	P	P	P	P
Home occupation (5)	P	P	P	P	P13	P13	P13	P13	P
Temporary Lodging:									
Hotel/motel					P	P	P	P	
Bed and breakfast guesthouse (4)		C	C	C	P	P	P	P	
Bed and breakfast inn (4)					P	P	P	P	
Recreation/Cultural Land Uses									
Park/Recreation:									
Park	P16	P16	P16	P16	P16	P16	P16	P16	P16
Recreational vehicle park									C46
Community center	C	C	C	C	C	C	C	C	C
Amusement/Entertainment:									
Sports club					C	C	C	C	
Golf facility (17)	C	C	C	C	P	P	P	P	
Cultural:									
Library, museum and art gallery	C	C	C	C	C	C	C	C	C
Church, synagogue and temple	C	C	C	C	P	P	P	P	C
General Services Land Uses									
Personal Services:									
Funeral home/crematory	C18	C18	C18	C18	C18	C18	C18	C18	C18
Cemetery, columbarium or mausoleum	P24	P24	P24	P24	P24	P24	P24	P24	P24
	C19	C19	C19	C19	C19	C19	C19	C19	C19

Specific Land Use	R-4.5	R-6.5	R-8	WR R-4-8	R-12	R-18	R-28	WR R-6-18	R-MHP
Day care I	P20	P20	P20	P20	P20	P20	P20	P20	P20
Day care II	C25	C25	C25	C25	C	C	C	C	C25
Stable	C	C	C	C					
Kennel or cattery, hobby	C	C	C	C	C	C	C	C	
Electric vehicle (EV) charging station (38), (39)	P	P	P	P	P	P	P	P	
EV rapid charging station (40), (41), (42)					P	P	P	P	
Health Services:									
Medical/dental clinic					C	C	C	C	
Education Services:									
Elementary, middle/junior high, and senior high (including public, private and parochial)	C	C	C	C	C	C	C	C	C
Commercial school	C21	C21	C21	C21	C21	C21	C21	C21	
School district support facility	C23	C23	C23	C23	C23	C23	C23	C23	
Interim recycling facility	P22	P22	P22	P22	P22	P22	P22	P22	
Vocational school									
Government/Business Service Land Uses									
Government Services:									
Public safety facilities, including police and fire	C26	C26	C26	C26	C26	C26	C26	C26	C26
Utility facility	P	P	P	P	P	P	P	P	P
Private storm water management facility	P	P	P	P	P	P	P	P	P

Specific Land Use	R-4.5	R-6.5	R-8	WR R-4-8	R-12	R-18	R-28	WR R-6-18	R-MHP
Public storm water management facility	P	P	P	P	P	P	P	P	P
Business Services:									
Self-service storage (31)					C27	C27	C27	C27	
Professional office					C	C	C	C	
Automotive parking	P29	P29	P29	P29	P29	P29	P29	P29	
Model house sales office	P47	P47	P47	P47					
Wireless communication facility (28)	P C	P C	P C	P C	P C	P C	P C	P C	P C
State-Licensed Marijuana Facilities:									
Marijuana cooperative (48)									
Marijuana processing facility – Indoor only (48)									
Marijuana production facility – Indoor only (48)									
Marijuana retail facility (48)									
Retail/Wholesale Land Uses									
Forest products sales	P32	P32	P32	P32					
Agricultural crop sales	P32	P32	P32	P32					
Resource Land Uses									
Agriculture:									
Growing and harvesting crops	P34	P34	P34	P34					
Raising livestock and small animals	P35	P35	P35	P35					
Forestry:									

Specific Land Use	R-4.5	R-6.5	R-8	WR R-4-8	R-12	R-18	R-28	WR R-6-18	R-MHP
Growing and harvesting forest products	P34	P34	P34	P34					
Fish and Wildlife Management:									
Hatchery/fish preserve (33)	C	C	C	C					
Aquaculture (33)	C	C	C	C					
Regional Land Uses									
Regional storm water management facility	C	C	C	C	C	C	C	C	C
Nonhydroelectric generation facility	C	C	C	C	C	C	C	C	C
Transit park and pool lot	P	P	P	P	P	P	P	P	
Transit park and ride lot	C	C	C	C	C	C	C	C	
School bus base	C36	C36	C36	C36	C36	C36	C36	C36	
Racetrack	C37	C37	C37	C37	C37	C37	C37	C37	
College/university	C	C	C	C	C	C	C	C	

Section 8. Section 22C.010.070, Permitted uses – Development conditions, of the Marysville Municipal Code is hereby amended to read as follows:

- (1) Accessory dwelling units must comply with development standards in Chapter [22C.180](#) MMC. Accessory dwelling units in the MHP zone are only allowed on single lots of record containing one single-family detached dwelling.
- (2) Limited to three residents per the equivalent of each minimum lot size or dwelling units per acre allowed in the zone in which it is located.
- (3) Only as part of a planned residential development (PRD) proposal, and subject to the same density as the underlying zone.
- (4) Bed and breakfast guesthouses and inns are subject to the requirements and standards contained in Chapter [22C.210](#) MMC.
- (5) Home occupations are subject to the requirements and standards contained in Chapter [22C.190](#) MMC.
- (6) Subject to cottage housing provisions set forth in MMC [22C.010.280](#).
- (7) Factory-built dwelling units shall comply with the following standards:
 - (a) A factory-built house must be inspected at least two times at the factory by the State Building Inspector during the construction process, and must receive an approval certifying that it meets all requirements of the International Building Code. At the building site, the city building official will conduct foundation, plumbing and final inspections.

- (b) A factory-built house cannot be attached to a metal frame allowing it to be mobile. All such structures must be placed on a permanent foundation at the building site.
- (8) Permitted outright in the R-6.5, R-8, and WR-R-4-8 zones on minimum 7,200-square-foot lots. A conditional use permit is required for the R-4.5 zone, and the minimum lot size must be 12,500 square feet. Duplexes must comply with the comprehensive plan density requirements for the underlying land use designation.
- (9) A garage sale shall comply with the following standards:
- (a) No residential premises shall have more than two such sales per year and no such sale shall continue for more than six days within a 15-day period.
 - (b) Signs advertising such sales shall not be attached to any public structures, signs or traffic control devices, nor to any utility poles. All such signs shall be removed 24 hours after the sale is completed.
- A garage sale complying with the above conditions shall be considered as being an allowable accessory use to all residential land uses. A garage sale violating one or more of the above conditions shall be considered as being a commercial use and will be disallowed unless it complies with all requirements affecting commercial uses.
- (10) Residential accessory structures must comply with development standards in Chapter [22C.180](#) MMC.
- (11) Manufactured homes must:
- ~~(a) Be no more than five years old, as evidenced by the date of manufacture recorded on the HUD data plate;~~
 - ~~(a**b**) Be set on a permanent foundation, as specified by the manufacturer, enclosed with an approved concrete product from the bottom of the home to the ground which may be either load-bearing or decorative;~~
 - ~~(b**e**) Meet all design standards applicable to all other single-family homes in the neighborhood in which the manufactured home is to be located;~~
 - (c) Be no more than five years old, as evidenced by the date of manufacture recorded on the HUD data plate. An administrative variance to the requirement that a manufactured home be no more than five years old may be granted by the community development director only if the applicant demonstrates all of the following:
 - (i) The strict enforcement of the provisions of this title creates an unnecessary hardship to the property owner;
 - (ii) The proposed manufactured home is well maintained and does not present any health or safety hazards;
 - (iii) The variance is necessary or warranted because of the unique size, shape, topography, location, critical areas encumbrance, or other feature of the subject property;
 - (iv) The proposed manufactured home will be compatible with the neighborhood or area where it will be located;
 - (v) The subject property is otherwise deprived, by provisions of this title, of rights and privileges enjoyed by other properties in the vicinity and within an identical zone;
 - (vi) The need for the variance is not the result of deliberate actions of the applicant or property owner; and
 - (vii) The variance is the minimum necessary to grant relief to the applicant.
- (12) Mobile homes are only allowed in existing mobile home parks established prior to October 16, 2006.
- (13) Home occupations are limited to home office uses in multifamily dwellings. No signage is permitted in townhouse or multifamily dwellings.
- (14) No more than one single-family detached or duplex dwelling is allowed per lot except in planned residential developments, through the provisions of Chapter [22G.080](#) MMC, using the binding site plan (BSP) process outlined in Chapter [22G.100](#) MMC, and designated on the face of the BSP, for multiple single-family detached dwellings on a single parcel; or accessory dwelling units through the provisions of Chapter [22C.180](#) MMC.
- (15) Subject to Chapter [22C.220](#) MMC, Master Planned Senior Communities.
- (16) The following conditions and limitations shall apply, where appropriate:

- (a) Parks are permitted in residential and mixed use zones when reviewed as part of a subdivision, mobile/manufactured home park, or multiple-family development proposal; otherwise, a conditional use permit is required;
 - (b) Lighting for structures and fields shall be directed away from residential areas; and
 - (c) Structures or service yards shall maintain a minimum distance of 50 feet from property lines adjoining residential zones.
- (17) Golf facilities shall comply with the following:
- (a) Structures, driving ranges and lighted areas shall maintain a minimum distance of 50 feet from property lines adjoining residential zones.
 - (b) Restaurants are permitted as an accessory use to a golf course.
- (18) Only as an accessory to a cemetery.
- (19) Structures shall maintain a minimum distance of 100 feet from property lines adjoining residential zones.
- (20) Only as an accessory to residential use and subject to the criteria set forth in Chapter [22C.200](#) MMC.
- (21) Only as an accessory to residential use, provided:
- (a) Students are limited to 12 per one-hour session;
 - (b) All instruction must be within an enclosed structure; and
 - (c) Structures used for the school shall maintain a distance of 25 feet from property lines adjoining residential zones.
- (22) Limited to drop box facilities accessory to a public or community use such as a school, fire station or community center.
- (23) Only when adjacent to an existing or proposed school.
- (24) Limited to columbariums accessory to a church; provided, that existing required landscaping and parking are not reduced.
- (25) Day care IIs must be located on sites larger than one-half acre and are subject to minimum standards identified in Chapter [22C.200](#) MMC for day care I facilities. Parking facilities and loading areas shall be located to the rear of buildings or be constructed in a manner consistent with the surrounding residential character. Evaluation of site suitability shall be reviewed through the conditional use permit process.
- (26) Public safety facilities, including police and fire, shall comply with the following:
- (a) All buildings and structures shall maintain a minimum distance of 20 feet from property lines adjoining residential zones;
 - (b) Any buildings from which fire-fighting equipment emerges onto a street shall maintain a distance of 35 feet from such street.
- (27) Accessory to an apartment development of at least 12 units, provided:
- (a) The gross floor area in self-service storage shall not exceed 50 percent of the total gross floor area of the apartment dwellings on the site;
 - (b) All outdoor lights shall be deflected, shaded and focused away from all adjoining property;
 - (c) The use of the facility shall be limited to dead storage of household goods;
 - (d) No servicing or repair of motor vehicles, boats, trailers, lawn mowers or similar equipment;
 - (e) No outdoor storage or storage of flammable liquids, highly combustible or explosive materials or hazardous chemicals;
 - (f) No residential occupancy of the storage units;
 - (g) No business activity other than the rental of storage units to the apartment dwellings on the site; and
 - (h) A resident manager shall be required on the site and shall be responsible for maintaining the operation of the facility in conformance with the conditions of approval.
- (28) All WCFs and modifications to WCFs are subject to Chapter [22C.250](#) MMC including, but not limited to, the siting hierarchy, MMC [22C.250.060](#). WCFs may be a permitted use or a conditional use subject to MMC [22C.250.040](#).
- (29) Limited to commuter parking facilities for users of transit, carpools or ride-share programs, provided:

- (a) They are located on existing parking lots for churches, schools, or other permitted nonresidential uses which have excess capacity available during commuting hours; and
 - (b) The site is adjacent to a designated arterial that has been improved to a standard acceptable to the department.
- (30) Model Homes.
- (a) The community development director may approve construction of model homes subject to the following conditions:
 - (i) No model home shall be constructed without the issuance of a building permit;
 - (ii) In no event shall the total number of model homes in a preliminary subdivision be greater than nine;
 - (iii) A hard-surfaced roadway to and abutting all model homes shall be constructed to standards determined by the city engineer or designee;
 - (iv) Operational fire hydrant(s) must be available in accordance with the International Fire Code;
 - (v) Submittal of a site plan, stamped by a registered civil engineer or licensed surveyor, delineating the location of each structure relative to existing and proposed utilities, lot lines, easements, roadways, topography and critical areas;
 - (vi) Submittal of building permit applications for each of the proposed structures;
 - (vii) Approval of water, sewer and storm sewer extension plans to serve the proposed structures; and
 - (viii) Execution of an agreement with the city saving and holding it harmless from any damages, direct or indirect, as a result of the approval of the construction of model homes on the site.
 - (b) Prior to occupancy of any model home, the final plat of the subject subdivision shall be approved and recorded.
- (31) Any outdoor storage areas are subject to the screening requirements of the landscape code.
- (32) Subject to approval of a small farms overlay zone.
- (33) May be further subject to the provisions of the Marysville shoreline master program.
- (34) Only allowed in conjunction with the small farms overlay zone.
- (35) Provided, that the property has received approval of a small farms overlay designation, or is larger than one acre in size.
- (36) Only in conjunction with an existing or proposed school.
- (37) Except racing of motorized vehicles.
- (38) Level 1 and Level 2 charging only.
- (39) Allowed only as an accessory use to a principal outright permitted use or permitted conditional use.
- (40) The term "rapid" is used interchangeably with "Level 3" and "fast charging."
- (41) Only "electric vehicle charging stations – restricted" as defined in Chapter [22A.020](#) MMC.
- (42) Rapid (Level 3) charging stations are required to be placed within a parking garage.
- (43) One single-family detached dwelling per existing single lot of record. Manufactured homes on single lots must meet the criteria outlined in subsection (11) of this section.
- (44) Used as a permanent residence in an established MHP or RV park; provided, that utility hookups in MHPs meet current standards for MHPs or RV parks.
- (45) MHPs shall fulfill the requirements of Chapter [22C.230](#) MMC.
- (46) Recreational vehicle parks are subject to the requirements and conditions of Chapter [22C.240](#) MMC.
- (47) Model house sales offices are subject to the requirements of MMC [22C.110.030](#)(12).
- (48) No person or entity may produce, grow, manufacture, process, accept donations for, give away, or sell marijuana concentrates, marijuana-infused products, or usable marijuana within residential zones in the city. Provided, activities in strict compliance with RCW [69.51A.210](#) and [69.51A.260](#) are not a violation of the Marysville Municipal Code.
- (49) Shipping/cargo and similar storage containers are prohibited on lots within a platted subdivision and properties under one acre in size. Shipping/cargo and similar storage containers may be located on properties over one acre in size if located behind the primary residence, observe all setbacks applicable to an accessory structure, and are screened from public view.

(50) Accessory structures may not be utilized as, or converted to, a dwelling unless the structure complies with the accessory dwelling unit standards outlined in MMC 22C.180.030.

Section 9. Section 22C.010.090, Densities and dimensions – Development conditions, of the Marysville Municipal Code is hereby amended to read as follows:

- (1) Maximum Density – Dwelling Unit/Acre.
 - (a) The maximum density for R-12, R-18, R-28, WR-R-4-8 and WR-R-6-18 zones may be achieved only through the application of residential density incentive provisions outlined in Chapter [22C.090](#) MMC.
 - (b) The maximum net density for the single-family zones is the same as the base density; provided, that for PRD developments the maximum density may be increased by up to 20 percent through the application of residential density incentive provisions outlined in Chapter [22C.090](#) MMC.
- (2) The minimum lot sizes for duplexes apply to lots or parcels which existed on or before the effective date of the ordinance codified in this chapter. All new duplex lots created through the subdivision or short subdivision process shall be a minimum of 12,500 square feet in size in the R4.5 zone, and 7,200 square feet in size in the R-6.5, R-8 and WR-R-4-8 zones. Additionally, all new duplex lots, must include a “duplex disclosure” on the plat map, and must comply with the density requirements of the comprehensive plan (six units per acre for the R-4.5 zone and eight units per acre for the R-6.5, R-8, and WR-R-4-8 zones).
- (3) These standards may be modified under the provisions for zero lot line and townhome developments.
- (4) Base Height.
 - (a) Height limits may be increased when portions of the structure which exceed the base height limit provide one additional foot of street and interior setback beyond the required setback for each foot above the base height limit; provided, that the maximum height may not exceed 60 feet.
 - (b) Multiple-family developments, located outside of Planning Area 1, abutting or adjacent to areas zoned as single-family, or areas identified in the comprehensive plan as single-family, may have no more floors than the adjacent single-family dwellings, when single-family is the predominant adjacent land use.
- (5) Applies to Each Individual Lot. Building coverage and impervious surface area standards for:
 - (a) Regional uses shall be established at the time of permit review; or
 - (b) Nonresidential uses in residential zones shall comply with MMC [22C.010.250](#).
- (6) Density – Dwelling Unit/Acre.
 - (a) The densities listed for the single-family zones (R-4.5, R-6.5, R-8) and single-family development in the Whiskey Ridge zones (WR-R-4-8, WR-R-6-18) are maximum net densities.
 - (b) Mobile home parks shall be allowed a maximum density of eight dwelling units per acre, unless located in the R-4.5 or R-6.5 zones, in which case they are limited to the density of the underlying zone.
- (7) The standards of the R-4.5 zone shall apply if a lot is less than 15,000 square feet in area.
- (8) On a case-by-case basis, the street setback may be reduced to 10 feet; provided, that at least 20 linear feet of driveway are provided between any garage, carport, or other fenced parking area and the street property line, or the lot takes access from an alley. The linear distance shall be measured in a straight line from the nearest point of the garage, carport or fenced area to the access point at the street property line. In the case of platted lots, no more than two consecutive lots may be reduced to 10 feet.
- (9) Residences shall have a setback of at least 50 feet from any property line if adjoining an agricultural zone either within or outside the city limits.
- (10) For townhomes or apartment developments, the setback shall be the greater of:
 - (a) Twenty feet along any property line abutting R-4.5 through R-8, and WR-R-4-8 zones; or
 - (b) The average setback of the R-4.5 through R-8 zoned and platted single-family detached dwelling units from the common property line separating said dwelling units from the

adjacent townhome or apartment development, provided the required setback applied to said development shall not exceed 60 feet. The setback shall be measured from said property line to the closest point of each single-family detached dwelling unit, excluding projections allowed per MMC [22C.010.210](#) and accessory structures existing at the time the townhome or apartment development receives approval by the city.

- (11) Townhome setbacks are reduced to zero on an interior side yard setback where the units have a common wall for zero lot line developments.
- (12) Townhome setbacks are reduced to five feet on side yard setbacks provided the buildings meet a 10-foot separation between structures.
- (13) Single-family detached units and duplexes on individual lots within the R-12 through R-28, and WR-R-6-18 zones shall utilize the dimensional requirements of the R-8 zone, except the base density.
- (14) Provided that the front yard setback shall be established as the point at which the lot meets the minimum width requirements. On a case-by-case basis, the street setback may be reduced to the minimum of 20 feet; provided, that the portion of the structure closest to the street is part of the "living area," to avoid having the garage become the predominant feature on the lot.
- (15) Subject to MMC [22A.020.130](#), subsection (1)(a) of the definition of "lot lines."
- (16) Required landscaping setbacks for developments on the north side of Soper Hill Road are 25 feet from the edge of sidewalk.
- (17) Projects with split zoning (two or more distinct land use zones) may propose a master site plan to density average at the zone edge or modify the zone boundaries using topography, access, critical areas, or other site characteristics in order to provide a more effective transition between land uses and zones. Approval is at the discretion of the community development director.

Section 10. Section 22C.010.210, Setbacks – Projections allowed, of the Marysville Municipal Code is hereby amended to read as follows:

Projections may extend into required setbacks as follows:

- (1) Fireplace structures including eaves and factory-built garden or bay windows may project into any setback, provided such projections are:
 - (a) Limited to two per facade;
 - (b) Not wider than 10 feet; and
 - (c) Not more than 24 inches into a side setback or 30 inches into a front or rear setback;
- (2) Uncovered porches and decks, including stairs, which exceed 30 inches above the finished grade may project:
 - (a) Eighteen inches into side setbacks; and
 - (b) Five feet into the front or rear setback;
- (3) Uncovered porches and decks not exceeding 30 inches above the finished grade, and uncovered accessory structures such as mechanical equipment, play structures, and tennis courts, may project to the property line, provided that, with the exception of uncovered porches and decks, the front property line setback for the zone shall be observed;
- (4) Eaves may not project more than:
 - (a) Twenty-four inches into a side setback;
 - (b) Thirty-four inches into a front or rear setback; or
 - (c) Eighteen inches across a lot line in a zero lot line development;
- (5) Accessory structures such as flagpoles and lampposts shall be setback a minimum of five feet from all property lines, provided:
 - (a) They are not located within a utility or access easement, and;
 - (b) Flags are not displayed in a manner that would cause the flag to encroach onto a neighboring property.

Section 11. Section 22C.010.220, Height – Exceptions to limits, of the Marysville Municipal Code is hereby amended to read as follows:

The following structures may be erected above the height limits of MMC 22C.010.080:

(1) Roof structures housing or screening elevators, stairways, tanks, ventilating fans or similar equipment required for building operation and maintenance; ~~and~~

(2) Fire or parapet walls, skylights, chimneys, smokestacks, church steeples, and utility line towers and poles; and

(3) Flagpoles may rise ten feet above the height limit, or five feet above the highest point of the roof, whichever is greater.

Section 12. Section 22C.020.060, Permitted uses, of the Marysville Municipal Code is hereby amended to read as follows:

Specific Land Use	NB	CB (63)	GC	DC	MU (63)	BP	LI	GI	REC	P/I
Residential Land Uses										
Dwelling Units, Types:										
Townhouse				P6	P					
Multiple-family	C4	P4, C5	P4, C5	P4, P6	P					
Mobile home	P7	P7	P7	P7	P7	P7	P7	P7		
Senior citizen assisted	P				C					P
Caretaker's quarters (3)	P	P	P	P	P	P	P	P	P	P
Group Residences:										
Adult family home	P	P	P	P	P	P70	P70	P70	P70	P
Convalescent, nursing, retirement	C	P	P	P	P					P
Residential care facility	P	P	P	P	P	P70	P70	P70	P70	P
Master planned senior community (10)					C					C
Accessory Uses:										
Home occupation (2)	P8	P8, P9	P8, P9	P8, P9	P8, P9	P9	P9	P9		
Temporary Lodging:										
Hotel/motel	P	P	P	P	P	P	P			

Specific Land Use	NB	CB (63)	GC	DC	MU (63)	BP	LI	GI	REC	P/I
Bed and breakfast guesthouse (1)										
Bed and breakfast inn (1)	P	P	P							
Recreation/Cultural Land Uses										
Park/Recreation:										
Park	P11	P	P	P	P	P	P	P	P11	P
Marina				P				P	C	P
Dock and boathouse, private, noncommercial				P				P	P16	P
Recreational vehicle park			C12				C12		C	P
Boat launch, commercial or public				P				P		P
Boat launch, noncommercial or private				P				P	P17	P
Community center	P	P	P	P	P	P	P	P	P	P
Amusement/Entertainment:										
Theater		P	P	P	P					
Theater, drive-in			C							
Amusement and recreation services		P18	P18	P18	P19	P	P	C		
Sports club	P	P	P	P	P	P	P	P		
Golf facility (13)		P	P			P	P	P	C	
Shooting range (14)			P15			P15	P15			
Outdoor performance center			C				C		C	C
Riding academy						P	P		C	
Cultural:										
Library, museum and art gallery	P	P	P	P	P	P	P	P	C	P

Specific Land Use	NB	CB (63)	GC	DC	MU (63)	BP	LI	GI	REC	P/I
Church, synagogue and temple	P	P	P	P	P	P	P	P		P
Dancing, music and art center		P	P	P	P				C	P
General Services Land Uses										
Personal Services:										
General personal service	P	P	P	P	P	P	P	P		
Dry cleaning plant		P					P	P		
Dry cleaning pick-up station and retail service	P	P	P	P	P25		P	P		
Funeral home/crematory		P	P	P	P26	P	P	P		
Cemetery, columbarium or mausoleum	P24	P24	P24 C20			P	P	P		
Day care I	P70	P70	P70	P70	P70	P70	P21, 70	P70	P70	P70
Day care II	P	P	P	P	P	P21	P21			
Veterinary clinic	P	P	P	P	P	P	P	P		
Automotive repair and service	P22	C, P28	P			P	P	P		
Electric vehicle (EV) charging station (64)	P	P	P	P	P	P	P	P	P	P
EV rapid charging station (65), (66)	P	P	P	P67	P67		P	P		
EV battery exchange station			P				P	P		
Miscellaneous repair		P	P				P	P		
Social services		P	P	P	P					P
Kennel, commercial and exhibitor/breeding (71)		P	P			C	P	P		

Specific Land Use	NB	CB (63)	GC	DC	MU (63)	BP	LI	GI	REC	P/I
Pet daycare (71), (72)		P	P	P	P	P	P	P		
Civic, social and fraternal association		P	P	P	C	P		P		P
Club (community, country, yacht, etc.)						P		P		P
Health Services:										
Medical/dental clinic	P	P	P	P	P					P
Hospital		P	P	P	C					C
Miscellaneous health	P68	P68	P68	P68	P68					P68
Education Services:										
Elementary, middle/junior high, and senior high (including public, private and parochial)		C	C	C	C		P	C		C
Commercial school	P	P		P	P27					C
School district support facility	C	P	P	P	P		P	P		P
Vocational school		P	P	P	P27					P
Government/Business Service Land Uses										
Government Services:										
Public agency office	P	P	P	P	P	P	P	P		P
Public utility yard			P				P			P
Public safety facilities, including police and fire	P29	P	P	P	P		P			P
Utility facility	P	P	P		C	P	P	P		P
Private storm water management facility	P	P	P	P	P	P	P	P		P
Public storm water management facility	P	P	P	P	P	P	P	P		P

Specific Land Use	NB	CB (63)	GC	DC	MU (63)	BP	LI	GI	REC	P/I
Business Services:										
Contractors' office and storage yard			P30	P30	P30		P	P		
Interim recycling facility		P23	P23				P			P
Taxi stands		P	P							
Trucking and courier service		P31	P31				P	P		
Warehousing and wholesale trade			P			P	P	P		
Mini-storage (36)			P			P	P	P		
Freight and cargo service			P			P	P	P		
Cold storage warehousing							P	P		
General business service and office	P	P	P	P	P30	P	P	P		
Commercial vehicle storage						P	P	P		
Professional office	P	P	P	P	P	P	P			
Miscellaneous equipment rental		P30, 37	C38		P30, 37		P	P		
Automotive rental and leasing			P				P			
Automotive parking	P	P	P	P	P	P	P	P		
Research, development and testing			P			P	P	P		
Heavy equipment and truck repair							P	P		
Automobile holding yard			C				P	P		
Commercial/industrial accessory uses (73)	P39, 40	P39	P39	P39, 40	P39, 40	P	P	P		
Adult facility								P33		
Factory-built commercial building (35)	P	P	P	P		P	P	P		
Wireless communication facility (32)	P, C	P, C	P, C	P, C	P, C	P, C	P, C	P, C		P, C

Specific Land Use	NB	CB (63)	GC	DC	MU (63)	BP	LI	GI	REC	P/I
State-Licensed Marijuana Facilities:										
Marijuana cooperative (69)										
Marijuana processing facility – Indoor only (69)										
Marijuana production facility – Indoor only (69)										
Marijuana retail facility (69)										
Retail/Wholesale Land Uses										
Building, hardware and garden materials	P47	P	P	P	P47		P	P		
Forest products sales		P	P				P			
Department and variety stores	P	P	P	P	P		P			
Food stores	P	P	P	P	P45		P			
Agricultural crop sales		P	P		C		P			
Storage/retail sales, livestock feed							P	P		
Motor vehicle and boat dealers		P	P				P	P		
Motorcycle dealers		C	P	P49			P	P		
Gasoline service stations	P	P	P	P			P	P		
Eating and drinking places	P41	P	P	P	P46	P	P	P		
Drug stores	P	P	P	P	P		P	P		
Liquor stores		P	P							
Used goods: antiques/secondhand shops		P	P	P	P					
Sporting goods and related stores		P	P	P	P					

Specific Land Use	NB	CB	GC	DC	MU	BP	LI	GI	REC	P/I
		(63)			(63)					
Book, stationery, video and art supply stores	P	P	P	P	P					
Jewelry stores		P	P	P	P					
Hobby, toy, game shops	P	P	P	P	P					
Photographic and electronic shops	P	P	P	P	P					
Fabric and craft shops	P	P	P	P	P					
Fuel dealers			P43			P43	P43	P43		
Florist shops	P	P	P	P	P					
Pet shops	P	P	P	P	P					
Tire stores		P	P	P			P	P		
Bulk retail		P	P				P			
Auction houses			P42				P			
Truck and heavy equipment dealers							P	P		
Mobile home and RV dealers			C				P	P		
Retail stores similar to those otherwise named on this list	P	P	P	P	P48	P44	P44	P44		
Automobile wrecking yards							C	P		
Manufacturing Land Uses										
Food and kindred products		P50, 52	P50				P50	P		
Winery/brewery		P53	P	P53	P53		P	P		
Textile mill products							P	P		
Apparel and other textile products			C				P	P		
Wood products, except furniture			P				P	P		

Specific Land Use	NB	CB (63)	GC	DC	MU (63)	BP	LI	GI	REC	P/I
Furniture and fixtures			P				P	P		
Paper and allied products							P	P		
Printing and publishing	P51	P51	P		P51	P	P	P		
Chemicals and allied products							C	C		
Petroleum refining and related industries							C	C		
Rubber and misc. plastics products							P	P		
Leather and leather goods							C	C		
Stone, clay, glass and concrete products							P	P		
Primary metal industries							C	P		
Fabricated metal products			C			P	P	P		
Industrial and commercial machinery							C	P		
Heavy machinery and equipment							C	P		
Computer and office equipment			C				P			
Electronic and other electric equipment			C				P			
Railroad equipment							C	P		
Miscellaneous light manufacturing				P54			P	P		
Motor vehicle and bicycle manufacturing							C	P		
Aircraft, ship and boat building							C	P		
Tire retreading							C	P		
Movie production/distribution			P				P			
Resource Land Uses										
Agriculture:										

Specific Land Use	NB	CB (63)	GC	DC	MU (63)	BP	LI	GI	REC	P/I
Growing and harvesting crops						P	P	P	P	
Raising livestock and small animals						P	P	P	P	
Greenhouse or nursery, wholesale and retail			P			P	P	P	C	
Farm product processing							P	P		
Forestry:										
Growing and harvesting forest products							P			
Forest research							P			
Wood waste recycling and storage							C	C		
Fish and Wildlife Management:										
Hatchery/fish preserve (55)						P	P	P	C	
Aquaculture (55)							P	P	C	
Wildlife shelters	C	C							P	
Mineral:										
Processing of minerals							P	P		
Asphalt paving mixtures and block							P	P		
Regional Land Uses										
Jail		C	C			C	C			
Regional storm water management facility		C	C	C		C	C	C		P
Public agency animal control facility			C				P	P		C
Public agency training facility		C56	C56		C56		C57			C57
Nonhydroelectric generation facility	C	C	C				C	C		C
Energy resource recovery facility							C			

Specific Land Use	NB	CB	GC	DC	MU	BP	LI	GI	REC	P/I
		(63)			(63)					
Soil recycling/incineration facility							C	C		
Solid waste recycling								C		C
Transfer station							C	C		C
Wastewater treatment facility						C	C	C		C
Transit bus base			C				P			C
Transit park and pool lot	P	P	P	P	P	P	P	P		P
Transit park and ride lot	P	P	P	P	P	P	P	P		C
School bus base	C	C	C				P			C58
Racetrack	C59	C59	C				P			
Fairground						P	P	P		C
Zoo/wildlife exhibit		C	C							C
Stadium/arena			C				C	P		C
College/university	C	P	P	P	P	P	P	P		C
Secure community transition facility								C60		
Opiate substitution treatment program facilities		P61, 62	P61, 62	P61, 62			P62	P62		

Section 13. Section 22C.020.070, Permitted uses – Development conditions, of the Marysville Municipal Code is hereby amended to read as follows:

- (1) Bed and breakfast guesthouses and inns are subject to the requirements and standards contained in Chapter [22C.210](#) MMC, Bed and Breakfasts.
- (2) Home occupations are subject to the requirements and standards contained in Chapter [22C.190](#) MMC, Home Occupations.
- (3) Limited to one dwelling unit for the purposes of providing on-site service and security of a commercial or industrial business. Caretaker’s quarters are subject to the provisions set forth in Chapter [22C.110](#) MMC, entitled “Temporary Uses.”
- (4) All units must be located above a street-level commercial use.
- (5) Twenty percent of the units, but no more than two total units, may be located on the street level of a commercial use, if conditional use permit approval is obtained and the units are designed exclusively for ADA accessibility. The street-level units shall be designed so that the units are not located on the street front and primary access is towards the rear of the building.

- (6) Permitted on the ground floor in the southwest sector of downtown vision plan area, as incorporated into the city of Marysville comprehensive plan.
- (7) Mobile homes are only allowed in existing mobile home parks established prior to October 16, 2006.
- (8) Home occupations are limited to home office uses in multifamily dwellings. No signage is permitted in townhouse or multifamily dwellings.
- (9) Permitted in a legal nonconforming or conforming residential structure.
- (10) Subject to Chapter [22C.220](#) MMC, Master Planned Senior Communities.
- (11) The following conditions and limitations shall apply, where appropriate:
 - (a) Parks are permitted in residential and mixed use zones when reviewed as part of a subdivision or multiple-family development proposal; otherwise, a conditional use permit is required;
 - (b) Lighting for structures and fields shall be directed away from residential areas; and
 - (c) Structures or service yards shall maintain a minimum distance of 50 feet from property lines adjoining residential zones.
- (12) Recreational vehicle parks are subject to the requirements and conditions of Chapter [22C.240](#) MMC.
- (13) Golf Facility.
 - (a) Structures, driving ranges and lighted areas shall maintain a minimum distance of 50 feet from property lines adjoining residential zones.
 - (b) Restaurants are permitted as an accessory use to a golf course.
- (14) Shooting Range.
 - (a) Structures and ranges shall maintain a minimum distance of 50 feet from property lines adjoining residential zones;
 - (b) Ranges shall be designed to prevent stray or ricocheting projectiles or pellets from leaving the property; and
 - (c) Site plans shall include safety features of the range; provisions for reducing noise produced on the firing line; and elevations of the range showing target area, backdrops or butts.
- (15) Only in an enclosed building.
- (16) Dock and Boathouse, Private, Noncommercial.
 - (a) The height of any covered over-water structure shall not exceed 20 feet as measured from the line of ordinary high water;
 - (b) The total roof area of covered, over-water structures shall not exceed 1,000 square feet;
 - (c) The entirety of such structures shall have not greater than 50 percent of the width of the lot at the natural shoreline upon which it is located;
 - (d) No over-water structure shall extend beyond the average length of all pre-existing over-water structures along the same shoreline and within 300 feet of the parcel on which proposed. Where no such pre-existing structures exist within 300 feet, the pier length shall not exceed 50 feet;
 - (e) Structures permitted hereunder shall not be used as a dwelling; and
 - (f) Covered structures are subject to a minimum setback of five feet from any side lot line or extension thereof. No setback from adjacent properties is required for any uncovered structure, and no setback from water is required for any structure permitted hereunder.
- (17) Boat Launch, Noncommercial or Private.
 - (a) The city may regulate, among other factors, required launching depth, and length of docks and piers;
 - (b) Safety buoys shall be installed and maintained separating boating activities from other water-oriented recreation and uses where this is reasonably required for public safety, welfare and health; and
 - (c) All site improvements for boat launch facilities shall comply with all other requirements of the zone in which it is located.
- (18) Excluding racetrack operation.

- (19) Amusement and recreation services shall be a permitted use if they are located within an enclosed building, or a conditional use if located outside. In both instances they would be subject to the exclusion of a racetrack operation similar to other commercial zones.
- (20) Structures shall maintain a minimum distance of 100 feet from property lines adjoining residential zones.
- (21) Permitted as an accessory use; see MMC [22A.020.020](#), the definition of "Accessory use, commercial/industrial."
- (22) Only as an accessory to a gasoline service station; see retail and wholesale permitted use table in MMC [22C.020.060](#).
- (23) All processing and storage of material shall be within enclosed buildings and excluding yard waste processing.
- (24) Limited to columbariums accessory to a church; provided, that existing required landscaping and parking are not reduced.
- (25) Drive-through service windows in excess of one lane are prohibited in Planning Area 1.
- (26) Limited to columbariums accessory to a church; provided, that existing required landscaping and parking are not reduced.
- (27) All instruction must be within an enclosed structure.
- (28) Car washes shall be permitted as an accessory use to a gasoline service station.
- (29) Public Safety Facilities, Including Police and Fire.
- (a) All buildings and structures shall maintain a minimum distance of 20 feet from property lines adjoining residential zones;
- (b) Any buildings from which fire-fighting equipment emerges onto a street shall maintain a distance of 35 feet from such street.
- (30) Outdoor storage of materials or vehicles must be accessory to the primary building area and located to the rear of buildings. Outdoor storage is subject to an approved landscape plan that provides for effective screening of storage, so that it is not visible from public right-of-way or neighboring properties.
- (31) Limited to self-service household moving truck or trailer rental accessory to a gasoline service station.
- (32) All WCFs and modifications to WCFs are subject to Chapter [22C.250](#) MMC including but not limited to the siting hierarchy, MMC [22C.250.060](#). WCFs may be a permitted use or a CUP may be required subject to MMC [22C.250.040](#).
- (33) Subject to the conditions and requirements listed in Chapter [22C.030](#) MMC.
- (34) Reserved.
- (35) A factory-built commercial building may be used for commercial purposes subject to the following requirements:
- (a) A factory-built commercial building must be inspected at least two times at the factory by the State Building and Electrical Inspector during the construction process, and must receive a state approval stamp certifying that it meets all requirements of the International Building and Electrical Codes. At the building site, the city building official will conduct foundation, plumbing and final inspections; and
- (b) A factory-built commercial building cannot be attached to a metal frame allowing it to be mobile. All structures must be placed on a permanent, poured-in-place foundation. The foundation shall be structurally engineered to meet the requirements set forth in Chapter 16 of the International Building Code.
- (36) Mini-storage facilities are subject to the development standards outlined in Chapter [22C.170](#) MMC.
- (37) Except heavy equipment.
- (38) With outdoor storage and heavy equipment.
- (39) Incidental assembly shall be permitted; provided, it is limited to less than 20 percent of the square footage of the site excluding parking.
- (40) Light industrial uses may be permitted; provided, there is no outdoor storage of materials, products or vehicles.
- (41) Excluding drinking places such as taverns and bars and adult entertainment facilities.
- (42) Excluding vehicle and livestock auctions.
- (43) If the total storage capacity exceeds 6,000 gallons, a conditional use permit is required.

- (44) The retail sale of products manufactured on site shall be permitted; provided, that not more than 20 percent of the constructed floor area in any such development may be devoted to such retail use.
- (45) Limited to 5,000 square feet or less.
- (46) Eating and Drinking Places.
- (a) Limited to 4,000 square feet or less.
 - (b) Drive-through service windows in excess of one lane are prohibited in Planning Area 1.
 - (c) Taverns, bars, lounges, etc., are required to obtain a conditional use permit.
- (47) Limited to hardware and garden supply stores.
- (48) Limited to convenience retail, such as video, and personal and household items.
- (49) Provided there is no outdoor storage and/or display of any materials, products or vehicles.
- (50) Except slaughterhouses.
- (51) Limited to photocopying and printing services offered to the general public.
- (52) Limited to less than 10 employees.
- (53) In conjunction with an eating and drinking establishment.
- (54) Provided there is no outdoor storage and/or display of any materials, products or vehicles.
- (55) May be further subject to the provisions of city of Marysville shoreline management program.
- (56) Except weapons armories and outdoor shooting ranges.
- (57) Except outdoor shooting ranges.
- (58) Only in conjunction with an existing or proposed school.
- (59) Except racing of motorized vehicles.
- (60) Limited to land located along east side of 47th Avenue NE alignment, in the east half of the northeast quarter of Section 33, Township 30N, Range 5E, W.M., and in the northeast quarter of the southeast quarter of Section 33, Township 30N, Range 5E, W.M., and land located east side of SR 529, north of Steamboat Slough, south and west of Ebey Slough (a.k.a. TP No. 300533-002-004-00) and in the northwest and southwest quarters of Section 33, Township 30N, Range 5E, W.M., as identified in Exhibit A, attached to Ordinance No. 2452.
- (61) Opiate substitution treatment program facilities permitted within commercial zones are subject to Chapter [22G.070](#) MMC, Siting Process for Essential Public Facilities.
- (62) Opiate substitution treatment program facilities, as defined in MMC [22A.020.160](#), are subject to the standards set forth below:
- (a) Shall not be established within 300 feet of an existing school, public playground, public park, residential housing area, child-care facility, or actual place of regular worship established prior to the proposed treatment facility.
 - (b) Hours of operation shall be restricted to no earlier than 6:00 a.m. and no later than 7:00 p.m. daily.
 - (c) The owners and operators of the facility shall be required to take positive ongoing measures to preclude loitering in the vicinity of the facility.
- (63) Permitted uses include Whiskey Ridge zones.
- (64) Level 1 and Level 2 charging only.
- (65) The term "rapid" is used interchangeably with Level 3 and fast charging.
- (66) Rapid (Level 3) charging stations are required to comply with the design and landscaping standards outlined in MMC [22C.020.265](#).
- (67) Rapid (Level 3) charging stations are required to be placed within a parking garage.
- (68) Excepting "marijuana (cannabis) dispensaries," "marijuana (cannabis) collective gardens," and "marijuana cooperatives" as those terms are defined or described in this code and/or under state law; such facilities and/or uses are prohibited in all zoning districts of the city of Marysville.
- (69) No person or entity may produce, grow, manufacture, process, accept donations for, give away, or sell marijuana concentrates, marijuana-infused products, or usable marijuana within commercial, industrial, recreation, and public institution zones in the city. Provided, activities in strict compliance with RCW [69.51A.210](#) and [69.51A.260](#) are not a violation of the Marysville Municipal Code.
- (70) Permitted within existing legal nonconforming single-family residences.
- (71) Subject to the requirements set forth in MMC 10.04.460.*

(72) Pet daycares are restricted to indoor facilities with limited, supervised access to an outdoor fenced yard. Overnight boarding may be permitted as a limited, incidental use. Both outdoor access and overnight boarding privileges may be revoked or modified if the facility is not able to comply with the noise standards set forth in WAC [173-60-040](#).*

(73) Shipping/cargo and similar storage containers may be installed on commercial or industrial properties provided they are screened from public view pursuant to MMC 22C.120.160, Screening and impact abatement.

Section 14. Section 22C.020.190, Height – Exceptions to limits, of the Marysville Municipal Code is hereby amended to read as follows:

The following structures may be erected above the height limits of MMC [22C.020.080](#)(2):

- (1) Roof structures housing or screening elevators, stairways, tanks, ventilating fans or similar equipment required for building operation and maintenance; and
- (2) Fire or parapet walls, skylights, chimneys, smokestacks, church steeples, flagpoles, and utility line towers and poles.

Section 15. Section 22C.130.030, Minimum required parking spaces, of MMC Chapter 22C.130, Parking and Loading, is hereby amended to read as follows:

(1) Purpose. The purpose of required parking spaces is to provide enough parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time. As provided in subsection (2)(e) of this section, bicycle parking may be substituted for some required parking on a site to encourage transit use and bicycling by employees and visitors to the site. The required parking numbers correspond to specific land use categories. Provision of carpool parking, and locating it closest to the building entrance, will encourage carpool use.

(2) Minimum Number of Parking Spaces Required.

(a) The minimum number of parking spaces for all zones and use categories is stated in Table 1.

(b) If the parking formula used to determine parking requirements results in a fractional number greater than or equal to one-half, the proponent shall provide parking equal to the next highest whole number.

(c) Changes in Occupancy. Whenever the occupancy classification of a building is changed, the minimum standards for off-street parking for the new occupancy classification shall be applicable; provided, that if the existing occupancy had established a legal nonconforming status with respect to off-street parking requirements, no additional off-street parking shall be required for the new occupancy unless said new occupancy is in a classification requiring more parking than that which would have been required for the existing occupancy if it had been subject to the provisions of this chapter. If strict application of this section is not feasible due to existing site conditions such as building or parcel size, shape or layout, a variance may be granted by the community development director.

(d) Joint Use Parking. Joint use of required parking spaces may occur where two or more uses on the same or separate sites are able to share the same parking spaces because their parking demands occur at different times. Joint use of required nonresidential parking spaces is allowed if the following documentation is submitted in writing to the community development department as part of a building or land use permit application, and approved by the community development director:

(i) The names and addresses of the uses and of the owners or tenants that are sharing the parking;

(ii) The location and number of parking spaces that are being shared;

(iii) An analysis showing that the peak parking times for the uses occur at different times and that the parking area will be large enough for the anticipated demands of both uses; and

- (iv) A legal instrument such as an easement or deed restriction that guarantees access to the parking for both uses.

The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within 500 feet of such parking facilities.

(e) Bicycle parking may substitute for up to 10 percent of required parking. For every five nonrequired bicycle parking spaces that meet the bicycle parking standards in MMC [22C.130.060](#), the motor vehicle parking requirement is reduced by one space.

Existing parking may be converted to take advantage of this provision.

(f) The off-street parking and loading requirements of this chapter do not apply retroactively to established uses; however:

- (i) The site to which a building is relocated must provide the required spaces; and
- (ii) A person increasing the floor area, or other measure of off-street parking and loading requirements, by addition or alteration, must provide spaces as required for the increase, unless the requirement under this subsection is five spaces or fewer.

(g) Reduction of Required Spaces When Effective Alternatives to Automobile Access Are Proposed. Upon demonstration to the hearing examiner that effective alternatives to automobile access are proposed to be implemented, the examiner may reduce by not more than 40 percent the parking requirements otherwise prescribed for any use or combination of uses on the same or adjoining sites, to an extent commensurate with the permanence, effectiveness, and demonstrated reduction in off-street parking demand achieved by such alternative programs. Alternative programs which may be considered by the examiner under this provision include, but are not limited to, the following:

- (i) Private vanpool operation;
- (ii) Transit/vanpool fare subsidy;
- (iii) Imposition of a charge for parking;
- (iv) Provision of subscription bus services;
- (v) Flexible work-hour schedule;
- (vi) Capital improvement for transit services;
- (vii) Preferential parking for carpools/vanpools;
- (viii) Participation in the ride-matching program;
- (ix) Reduction of parking fees for carpools and vanpools;
- (x) Establishment of a transportation coordinator position to implement carpool, vanpool, and transit programs; or
- (xi) Bicycle parking facilities.

(h) Reduction of Required Spaces in Downtown Vision Plan Area. Commercial uses within the downtown core, southwest sector, southeast sector, and waterfront sector may reduce the number of required off-street parking spaces in accordance with this section, upon demonstration to the community development department that the proposed use is in conformance with the downtown master plan guidelines as set forth in the comprehensive plan. Expansion of existing commercial buildings and uses is required to demonstrate conformance with the city's design standards and guidelines or to incorporate reasonable measures to meet the intent of the guidelines for existing uses. For commercial uses requiring less than 10 spaces, the parking requirements may be waived by the director. For required parking in excess of 10 spaces, the applicant must demonstrate that adequate on-street parking facilities exist within 400 feet of the proposed use in order to qualify for a reduction. Parking may be reduced by up to 50 percent if consistent with the downtown master plan guidelines. In approving a reduction to required off-street parking, the department may require improvement of existing right-of-way to meet the intent of this code and the downtown master plan in providing improved parking, walkways and access to the business.

(i) Uses Not Mentioned. In the case of a use not specifically mentioned in Table 1: Minimum Required Parking Spaces, the requirements for off-street parking shall be determined by the community development director. If there are comparable uses, the community development director's determination shall be based on the requirements for the most comparable use(s). Where, in the judgment of the community development

director, none of the uses in Table 1: Minimum Required Parking Spaces are comparable, the community development director may base his or her determination as to the amount of parking required for the proposed use on detailed information provided by the applicant. The information required may include, but not be limited to, a description of the physical structure(s), identification of potential users, and analysis of likely parking demand.

(3) Carpool Parking. For office, industrial, and institutional uses where there are more than 20 parking spaces on the site, the following standards must be met:

- (a) Five spaces or five percent of the parking spaces on site, whichever is less, must be reserved for carpool use before 9:00 a.m. on weekdays. More spaces may be reserved, but they are not required.
- (b) The spaces will be those closest to the building entrance or elevator, but not closer than the spaces for disabled parking and those signed for exclusive customer use.
- (c) Signs must be posted indicating these spaces are reserved for carpool use before 9:00 a.m. on weekdays.

Table 1: Minimum Required Parking Spaces

LAND USE	MINIMUM REQUIRED SPACES
RESIDENTIAL USES	
Single-family dwellings, duplexes, townhouses, and mobile homes	2 per dwelling <u>unit for residents plus one additional guest parking space per dwelling unit</u> ; provided: 1. One guest parking space is required per unit, where <u>An enclosed private garage is may be</u> utilized to meet the required parking <u>for residents</u> . Driveways can be counted as <u>resident or a-guest parking spaces</u> , provided said driveway complies with the bulk and dimensional requirements outlined in Table 2; and 2. Parking spaces behind other required parking spaces (a.k.a. "tandem parking") shall not be counted towards the 2 required parking spaces <u>per dwelling for the residents in a development</u> ; however, tandem parking can be counted as a guest parking space, when required
Accessory dwelling units	1 space per dwelling unit
Multiple-family dwellings, one bedroom per unit	1.5 per dwelling unit. Parking spaces behind other required parking spaces (a.k.a. "tandem parking") shall not be counted towards the 2 required parking spaces in a multifamily development; however, tandem parking can be counted as a guest parking space, when required
Multiple-family dwellings, two or more bedrooms	1.75 per dwelling unit. Parking spaces behind other required parking spaces (a.k.a. "tandem parking") shall not be counted towards the 2 required parking spaces in a multifamily development; however, tandem parking can be counted as a guest parking space, when required
Retirement housing and apartments	1 per dwelling
Mobile home parks	2 per unit, plus guest parking at 1 per 4 lots
Rooming houses, similar uses	1 per dwelling
Bed and breakfast accommodations	1 space for each room for rent, plus 2 spaces for the principal residential use
RECREATIONAL/CULTURAL USES	
Movie theaters	1 per 4 seats

Table 1: Minimum Required Parking Spaces

LAND USE	MINIMUM REQUIRED SPACES
Stadiums, sports arenas and similar open assemblies	1 per 8 seats or 1 per 100 SF of assembly space without fixed seats
Dance halls and places of assembly w/o fixed seats	1 per 75 SF of gross floor area
Bowling alleys	5 per lane
Skating rinks	1 per 75 SF of gross floor area
Tennis courts, racquet clubs, handball courts and other similar commercial recreation	1 space per 40 SF of gross floor area used for assembly, plus 2 per court
Swimming pools (indoor and outdoor)	1 per 10 swimmers, based on pool capacity as defined by the Washington State Department of Health
Golf courses	4 spaces for each green, plus 50% of spaces otherwise required for any accessory uses (e.g., bars, restaurants)
Gymnasiums, health clubs	1 space per each 200 SF of gross floor area
Churches, auditoriums and similar enclosed places of assembly	1 per 4 seats or 60 lineal inches of pew or 40 SF gross floor area used for assembly
Art galleries and museums	1 per 250 SF of gross floor area
COMMERCIAL/OFFICE USES	
Banks, business and professional offices (other than medical and dental) with on-site customer service	1 per 400 SF gross floor area
Retail stores and personal service shops unless otherwise provided herein	If < 5,000 SF floor area, 1 per 600 SF gross floor area; if > 5,000 SF floor area, 8 plus 1 per each 300 SF gross floor area over 5,000 SF
Grocery stores	1 space per 200 SF of customer service area
Barber and beauty shops	1 space per 200 SF
Motor vehicle sales and service	2 per service bay plus 1 per 1,000 SF of outdoor display
Motor vehicle or machinery repair, without sales	2 plus 2 per service bay
Mobile home and recreational vehicle sales	1 per 3,000 SF of outdoor display area
Motels and hotels	1 per unit or room
Restaurants, taverns, bars with on-premises consumption	If < 4,000 SF, 1 per 200 SF gross floor area; if > 4,000 SF, 20 plus 1 per 100 SF gross floor area over 4,000 SF
Drive-in restaurants and similar establishments, primarily for auto-borne customers	1 per 75 SF of gross floor area. Stacking spaces shall be provided in accordance with Chapter 22C.140 MMC, Drive-Through Facilities
Shopping centers	If < 15,000 SF, 1 per 200 SF of gross floor area; if > 15,000 SF, 1 per 250 SF of gross floor area

Table 1: Minimum Required Parking Spaces

LAND USE	MINIMUM REQUIRED SPACES
Day care centers	1 space per staff member and 1 space per 10 clients. A paved unobstructed pick-up area shall be set aside for dropping off and picking up children in a safe manner that will not cause the children to cross the parking area or lines of traffic
Funeral parlors, mortuaries or cemeteries	1 per 4 seats or 8 feet of bench or pew or 1 per 40 SF of assembly room used for services if no fixed seating is provided
Gasoline/service stations w/grocery	1 per employee plus 1 per 200 SF gross floor area
Adult facilities as defined by MMC 22A.020.020	1 per 75 SF of gross floor area or, in the case of an adult drive-in theater, 1 per viewing space
HEALTH SERVICES USES	
Nursing homes, convalescent homes for aged	1 per 5 beds plus 1 space per employee and medical staff
Medical and dental clinics	1 per 200 SF gross floor area
Hospitals	1 per 2 beds, excluding bassinets
EDUCATIONAL USES	
Elementary, junior high schools (public and private)	5 plus 1 per each employee and faculty member
Senior high schools (public and private)	1 per each 10 students plus 1 per each employee or faculty member
Commercial/vocational schools	1 per each employee plus 1 per each 2 students
PUBLIC/GOVERNMENT USES	
Public utility and governmental buildings	1 per 400 SF of gross floor area
Libraries	1 per 250 SF of gross floor area
MANUFACTURING/WAREHOUSE USES	
Manufacturing and industrial uses of all types, except a building used exclusively for warehouse purposes	One per 500 SF of gross floor area plus 1 per each 2 employees on maximum working shift
Warehouses, storage and wholesale businesses	1 per each 2 employees on maximum working shift
Mini self-storage	1 per each 50 storage cubicles equally distributed and proximate to storage buildings. In addition, 1 space for each 50 storage cubicles to be located at the project office

Section 16. Section 22C.160.080, Exemptions, of the Marysville Municipal Code is hereby amended to read as follows:

The following signs are exempted from obtaining a sign permit, but must comply with all other requirements of this chapter and with the specific requirements set forth below for each type of sign:

- (1) A change in the face of the sign or advertising copy of an existing, legally permitted, sign.
- (2) Temporary and special event signs meeting the requirements of MMC [22C.160.230](#).
- (3) On-premises and portable commercial or real estate signs meeting the requirements of MMC [22C.160.230](#)(5) and (6).
- (4) Political signs meeting the requirements of MMC [22C.160.230](#)(7).
- (5) Nonelectric signs not exceeding four square feet per face, which are limited in content to the name of occupant and address of the premises in a residential zone.
- (6) Instructional signs, not exceeding six square feet per sign; provided, that foundation, anchorage, attachments and other structural support of the sign and electrical connection require construction permits.
- (7) Menu signs. Foundation, anchorage, attachments and other structural support of the sign and electrical connection require construction permits.
- (8) Seasonal decorations. Reasonable seasonal decorations within an appropriate holiday season or during a festival are exempt from this section as long as such displays are removed promptly at the end of the holiday season or festival.
- (9) Sculptures, fountains, benches, lighting, mosaics, murals, landscaping and other street furniture and design features, which do not incorporate advertising or identification.
- (10) Signs not visible from public way. Exterior and interior signs or displays not intended to be visible from streets or public ways, signs in the interior of a building more than three feet from the closest window and not facing a window, window displays and point of purchase advertising displays such as vending machines.
- ~~(11) The flag, emblem or insignia of a nation or other governmental unit or nonprofit organization, subject to the guidelines concerning their use set forth by the government or organization which they represent. Flag poles require a construction permit for structural review.~~
- ~~(11)2~~ Traffic or other municipal signs, signs required by law or emergency services, railroad crossing signs, legal notices, and any temporary signs specifically authorized by the city council or authorized under policies and procedures adopted by the city council.
- ~~(12)3~~ Signs of public utility companies indicating danger or which serve as an aid to public safety or which show the location of underground facilities or of public telephones.
- ~~(13)4~~ Memorial signs or tablets, names of buildings, stained glass windows and dates of erection when cut into the surface of the facade of the building or when projecting not more than two inches.
- ~~(14)5~~ Incidental signs, including, but not limited to, "no trespassing," "no dumping," "no parking," "private," signs identifying essential public needs (i.e., restrooms, entrance, exit, telephone, etc.) and other information warning signs, which shall not exceed three square feet in surface area.
- ~~(15)6~~ Flush-mounted wall signs which are used to identify the name and address of the occupant for each dwelling, provided the sign does not exceed two square feet in sign area.
- ~~(16)7~~ Gateway entrance signs. Gateway entrance signs that comply with the city of Marysville gateway master plan. Foundation, anchorage, attachments and other structure support of the sign and electrical connection require construction permits.

Section 17. Section 22G.080.100, Open spaces, of the Marysville Municipal Code is hereby amended to read as follows:

- (1) A minimum of 15 percent of the net project area shall be established as open space. Critical areas and buffers may be used to satisfy a maximum of 65 percent of the required open space. Parking areas, driveways, access streets and required yards are not considered to be open space for purposes of this section. ~~Critical areas and buffers may be used to satisfy up to 10 percent of~~

~~this requirement.~~ Fencing and/or landscaping shall separate, while maintaining visual observability of, recreation areas from public streets, parking areas and driveways.

(2) Open space and recreational facilities shall be owned, operated and maintained in common by the PRD property owners; provided, that by agreement with the city council, open space may be dedicated in fee to the public.

(3) The open space requirement may be reduced if substantial and appropriate recreational facilities (such as recreational buildings, swimming pools or tennis courts) are provided. If an open space reduction is proposed, detailed plans showing the proposed recreational facilities must be submitted with the preliminary site plan.

(4) Open space excluding critical areas and buffers shall:

- (a) Be of a grade and surface suitable for recreation;
- (b) Be on the site of the proposed development;
- (c) Be one continuous parcel if less than 3,000 square feet in size, not to be located in the front yard setback;
- (d) Have no dimensions less than 30 feet (except trail segments);
- (e) Be situated and designed to be observable by the public; and
- (f) Be accessible and convenient to all residents within the development.

Section 18. Section 22A.010.160, Amendments, of the Marysville Municipal Code 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>
_____	2016 Code Clean-Up Amendments	_____, 2017”

Section 19. 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 20. 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 _____, 2017.

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)

From: roumx@comcast.net
Sent: Monday, February 27, 2017 9:59 AM
To: Angela Gemmer
Subject: Fwd: Please review before scheduling a meeting.

Follow Up Flag: Follow up
Flag Status: Flagged

I sent this from a different email. I forwarded this email to roumx in order to keep accurate records. The email was from me to Mr. Koenig. I think it is the last one.

From: epkservices@comcast.net
To: roumx@comcast.net
Sent: Friday, October 28, 2016 7:12:33 AM
Subject: Fwd: Please review before scheduling a meeting.

From: epkservices@comcast.net
To: dkoenig@marysvillewa.gov
Sent: Tuesday, August 30, 2016 12:32:37 PM
Subject: Please review before scheduling a meeting.

City of Marysville Community Development
To: David Koenig

I was unable to locate a definition of a flagpole or flag pole in the definitions for Chapter 22, except that 2a.020.020 indicates that Flag poles are an accessory structure. Based on 22c.160.080 and 22a.020.200 one would conclude that a flagpole is a part of a flag sign.

Simple Definition of flagpole

A tall pole from which a flag hangs: a pole used to display a flag

Full definition of flagpole

A pole on which to raise a flag.

Source: Merriam-Webster's Learner's Dictionary

If a search for "flagpole" or "flag pole" is listed in the search area of the municipal code, the search results show flagpole under F. I was not able to find a definition of flagpole in the F list, but there is a definition of Freestanding Sign at the end of the F section. "Freestanding sign" means a sign on a frame, pole, or other support structure that is not attached to any building. If a flag is a sign, a flagpole with a flag would appear to be a Freestanding sign, a pole sign or a pylon sign. 22c.160.080 indicates that a flag is a sign and a sign includes the sign structure (22a.020.200).

22a.020.200 and 22c.160.080 are contradictory. One states that a flag is not a sign and one states that a flag is a sign.

The following material would be helpful to have available at the meeting when responding to my questions.

Definitions

Sign

Freestanding sign

Pole sign

Pylon sign

Flag Pole

Flag

Accessory structure

Exempt sign

Non exempt sign

Internal property line

I was unable to locate definitions for several of these items in the definitions sections. Most are defined in sections of 22a and c.

Sections

22a.020.200 Sign

22c.160.080

22c.160.150 numbers 1, 4, and 6.

22.160.070 number 9

22a.020.020 Accessory structure

22c.160.170

22c.160.230

22a.020.070 Pole sign and pylon sign.

Sincerely yours,

Evan Kaiser 425-309-7028



From: roumx@comcast.net
Sent: Monday, February 27, 2017 9:30 AM
To: Angela Gemmer
Subject: Fwd: Flagpole

Follow Up Flag: Follow up
Flag Status: Flagged

additional emails

From: "David Koenig" <dkenig@marysvillewa.gov>
To: roumx@comcast.net
Sent: Monday, October 17, 2016 9:06:17 AM
Subject: RE: Flagpole

Last week a code enforcement officer went out to talk to the owner of the flag pole you complained about. When they arrived the pole was reduced in size to 4 to 5 feet, they estimate, and there was no flag being flown or set up for a flag. Based on this observation the pole is not being used as a flag pole and is reduced in height. I am having them look at it again.

The observation last week showed no violation of the code.

Dave Koenig

From: roumx@comcast.net [mailto:roumx@comcast.net]
Sent: Tuesday, October 11, 2016 7:59 AM
To: David Koenig <dkenig@marysvillewa.gov>
Subject: Flagpole

City of Marysville Washington
To: Community Development Director
David Koenig

After talking with you on 10-7-2016, I filed a complaint about the flagpole. Is this complaint handled by you personally or Code Enforcement or some other department or individual? Have you determined that a construction permit for structural review was or was not issued to 2914 73rd Ave NE? You indicated that there are many complaints that need to be processed and which typically take 2 to 3 weeks to complete. This complaint was accepted by you on 9-7-2016, and I understand that some things take longer than typical estimates. Can you estimate when the city might determine whether this flagpole violates several MMC codes and when the violators of these regulations will be notified? If a violation is determined, how soon will the city request abatement? I would like to be notified by email, as each step in this process is completed. I understand that the enforcement of the codes can be contested by violators of the codes.

After reviewing many sections of the MMC, I am not clear about the notification process for suspected violations.

Can the city be notified verbally that a citizen suspects a violation of the MMC?

If verbally notified, must the proper department investigate the suspected violation?
Must a citizen complaint be filed in order for the city to investigate a possible violation of the MMC?

The MMC comments place the responsibility of correcting violations on the directors of any department of the city, or such other head of a department that is authorized to utilize the provisions of this title to enforce violations of the MMC, and shall include any duly authorized representative of such director. Once the city is notified of a possible violation (verbally or by a citizen complaint form) is there any regulation that addresses how soon an investigation and corrective action should be taken by the city?

Based on further research, I have concluded that if this flagpole violates any land use or zoning regulation listed under chapter 22, or chapter 16, then this flagpole should also be considered to be a public nuisance. This last sentence is based on MMC 4.02.020 (7) (c). If this flagpole lacks a construction permit for structural review or violates the side yard set back, or any other section of MMC 22 or MMC16 would this flagpole be a public nuisance?

Thank you,

Evan Kaiser

From: roumx@comcast.net
Sent: Monday, February 27, 2017 9:32 AM
To: Angela Gemmer
Subject: Fwd: MMC

Follow Up Flag: Follow up
Flag Status: Flagged

additional emails

From: "David Koenig" <dkoenig@marysvillewa.gov>
To: roumx@comcast.net
Cc: "Chris Holland" <CHolland@marysvillewa.gov>, "Deryck McLeod" <deryck.mcleod@marysvillewa.gov>, "Elizabeth Chamberlin" <echamberlin@marysvillewa.gov>
Sent: Monday, October 17, 2016 11:32:56 AM
Subject: RE: MMC

I am answering your email on behalf of the Department. The answers are below highlighted in yellow.

Dave Koenig | Community Development Director

CITY OF MARYSVILLE
Community Development Department
80 Columbia Avenue
Marysville, WA 98270

360-363-8100 Office
360-363-8211 Direct Line
360-651-5099 Fax

dkoenig@marysvillewa.gov
<http://marysvillewa.gov>

From: roumx@comcast.net [mailto:roumx@comcast.net]
Sent: Tuesday, October 11, 2016 8:04 AM
To: Deryck McLeod <deryck.mcleod@marysvillewa.gov>
Subject: MMC

City of Marysville Washington
To: Code Enforcement
Code Enforcement Officer Deryck McLeod

On 10-7-2016, I indicated to you that I had some questions about some of the statements in the MMC.

The following comments pertain to Chapter 4 of the MMC. I try to logically interpret these sections as they are written. I have been told that the city can determine their own regulations, which may contradict the state's regulations. I would like clarification of the following sections, which I believe are either in error or which may result in unintended interpretations. I am not attempting to nitpick your regulations. I am not asking for a legal interpretation. I want to know how your department would interpret these sections of the MMC. If you are not able to respond to these matters, please forward this email to the proper department or individual that can respond. Upon receipt of this email, please

email me an estimate of when I might expect a response to these items. I would like the responses to be by email.

4.02.020 Definitions.

(7) "Public nuisance" means the following:

(a) A nuisance or public nuisance as defined in state statute or city ordinance, including but not limited to Chapter 7.48 RCW and Chapters 6.24, 6.25 and 7.04 MMC;

(b) A nuisance at common law, either public or private;

(c) A violation of the city's land use, zoning, and environmental regulations (MMC Title 22), construction code regulations (MMC Title 16),

(a) Is there a section 7.04 of the MMC?

The municipal code on line is the code. Where the numbering system skips around means there is no code section like 7.04 does not exist. I do not know the full history, but sections of the code at times are repealed or the original numbering system leaves areas where code can be added.

Title 7 begins with 7.05

HEALTH AND SANITATION¹

Chapters:

7.05 Camping

(b) "Public nuisance" means the following: A nuisance at common law, either public or private.

This sentence would classify a private nuisance at common law as a public nuisance. Is a private nuisance at common law a public nuisance? Is there a definition of a nuisance at common law in the MMC? If not, please provide the definition of this term used by your department.

Public Nuisance is defined in code @ MMC 4.02.020

4.02.030 Citizen complaints.

(1) Written Complaint/Notice to Owner. The second sentence in this section states:

"The citizen complaint process shall not apply to actions for which there are administrative and/or judicial appeals provided for in this title or other titles, chapters or sections of the MMC."

Based on this sentence, I would conclude that: The Citizen complaint process (shall not apply) is not applicable or allowed to actions for which there are administrative and/or judicial appeals provided for in this title (which is Chapter 4.02) or other titles, chapters or sections of the MMC.

I often have to review the meaning of words. Based on my research, the word "action" has many meanings, but the following definitions appear to be applicable to this sentence.

1. the initiating of a proceeding in a court of justice by which one demands or enforces one's right; *also* : the proceeding itself
1. the bringing about of an alteration by force or through a natural agency

Perhaps I am confused, but section (4) indicates that the hearing examiner's decision can be appealed to the Snohomish County Superior Court. If an administrative and/or judicial appeal is possible, the second sentence in section (1) states that the citizen complaint process shall not apply. If the citizen complaint process shall not apply, why file a citizen complaint? Please clarify this matter.

When we make decisions about land use applications or other permits there is an appeal procedure for these actions separate from code enforcement. The Code Enforcement process is not the process to review the decisions or actions related to permits which are consistent with the MMC. One example is if a building permit is issued and is built to code. This is not an action which is a code enforcement action, if someone complains about the project. But if someone does not build a project in a timely manner and it is left open not completed this type of project could be a code enforcement action.

The last sentence in this part of Section (1) states that: *A copy of the complaint shall be promptly mailed to the property owner of the subject property via first class and certified (return receipt requested) mail.* Does the city mail this copy?

We have door hangers and visit directly before we sent out a certified letter. When we do mail certified letters as necessary to get compliance.

The following appears on your website under Code Enforcement Description.

Code Enforcement

The city's code enforcement officer enforces the chapters of the Marysville Municipal Code that address public health and safety issues. The Code Enforcement officer investigates allegations that arise from citizen complaints and works with homeowners to remedy these conditions

The first sentence clearly states that the code enforcement officer enforces the chapters of the MMC that address public health and safety issues. To me this indicates that the code enforcement officer enforces only the chapters of the MMC that address public health and safety issues. Is my statement correct? If so, who enforces all of the other chapters of the MMC?

Code enforcement is involved with a variety of complaints and if not code enforcement then others get involved or a team action. An example is operating a business without a license. This is an issue that Planning staff and code enforcement would get involved with enforcing. Complaints about Native Growth Protection Areas would get Planning involved. Police are involved with complaints of vehicles in the right of way which are abandoned etc.

The second sentence indicates that the Code Enforcement officer investigates allegations that arise from citizen complaints and works with homeowners to remedy these conditions. I believe that this sentence states that any citizen complaint will be investigated by the Code Enforcement officer. Is my belief correct? How does the Code Enforcement officer work with homeowners to remedy these conditions? If the code enforcement officer enforces only those that address public and safety issues what process does the code enforcement officer use to remedy these conditions?

Code enforcement responds to complaints to see if the issues are a code violation. One recent one we had a complaint about someone building in a stream corridor and when the code enforcement officer went to review this it turned out someone was building a small shed which was not a violation. We do review all complaints which are submitted to us.

Title 7 pertains to Health and Sanitation, but I am unable to locate a title that pertains to safety issues. Is there a title or chapter of the MMC that pertains to safety issues?

"Public Health, Safety, and General Welfare are legal terms used for review of land use applications like subdivisions, etc. The safety is to make sure the projects are built to standards which are designed to be safe. This would include building permits, subdivisions of land with retaining walls, etc. The safety considerations are within the code themselves like the building code or critical areas rules.

Must a citizen complaint form be filed in order for the code enforcement officer to investigate any allegation of the violation of any MMC?

We recommend that citizens fill out complaint forms either on line or on available forms

Thank you,
Evan Kaiser

From: roumx@comcast.net
Sent: Monday, February 27, 2017 9:33 AM
To: Angela Gemmer
Subject: Fwd: 2914 73rd Ave NE
Attachments: 001.jpg

Follow Up Flag: Follow up
Flag Status: Flagged

additional emails

From: "David Koenig" <dkenig@marysvillewa.gov>
To: roumx@comcast.net
Sent: Monday, October 17, 2016 6:07:03 PM
Subject: Fw: 2914 73rd Ave NE

Evan

The attached picture is from today. No change from last week.

Dave Koenig

From: Deryck McLeod
Sent: Monday, October 17, 2016 2:17:29 PM
To: David Koenig
Cc: Chris Holland
Subject: 2914 73rd Ave NE

Taken today...

Deryck

From: roumx@comcast.net
Sent: Monday, February 27, 2017 9:26 AM
To: Angela Gemmer
Subject: Fwd: Several

Follow Up Flag: Follow up
Flag Status: Flagged

To: Angela Gemmer

I will have to forward each of the emails to you. All of the emails pertain to the letter that I gave to Gloria Hirashima on 11-8-2016 and her response to this letter dated 11-18-2016. She should have a copy of all of the emails that I gave to her at our meeting on 11-8-2016. I believe that the emails that I am sending to you are the ones that I gave to her. This email is just the first, which includes my email and Mr. Koenig's response.

Evan Kaiser

From: "David Koenig" <dkoenig@marysvillewa.gov>
To: roumx@comcast.net
Sent: Friday, November 4, 2016 4:13:25 PM
Subject: RE: Several

Evan

An enforcement letter has been sent to James and Christine Henkelman @ 2914 73RD AVE NE on the flag pole this week. We asked that they contact us to get a permit for their flag pole. Regarding visits, we visited the site on October 17 and I sent the picture to you on that date. We also visited the site the previous week. Both of those visits the flag pole was lowered and had no flags on it. I communicated to you that the lowered pole was not a code violation. We visited the site before these two visits and I communicated this to you verbally. My email to you on Oct 17 answered the questions you sent in my mind.

We have never had a complaint about a flag pole. I spent some time reviewing the code and asking staff what was the intent of the code when written. We have a big workload and get to items as we can balancing various work items.

Regarding the noise from the pole. Have you talked to your neighbor about this? This would be the quickest way to solve your noise issue. We encourage people to work out issues with their neighbors like noise from a flag pole.

Dave Koenig

From: roumx@comcast.net [mailto:roumx@comcast.net]
Sent: Friday, October 28, 2016 8:39 AM
To: David Koenig <dkoenig@marysvillewa.gov>
Subject: Several

City of Marysville Community Development Department
To: David Koenig

10-28-2016

RE: Flagpole at 2914 73 Ave NE

On 9-7-2016 we met and discussed that the location of this flag pole might violate the set back requirement for accessory structures. You indicated at that time that if the set back requirement was violated that this flagpole would be removed from the present location. You indicated that I need not file a complaint and that you would handle this matter. Since then I filed a complaint and indicated that several more MMCs are violated by the presence of this flagpole. You indicated that complaints are generally handled in 2 to 3 weeks. As of Wednesday 10-28-2016 seven weeks have passed since our meeting.

I indicated that I would like to be advised of the progress of the processing of this complaint. On 10-7-2016 you indicated that a photograph of this flagpole had been taken. On 10-17-2016 you indicated that other inspections of this flagpole had been completed. Please supply me with the dates of all of the inspections that were completed.

Verifying whether a construction permit was issued to this property for a flagpole would have required very little time or effort. Was a construction permit for this flagpole issued prior to 9-7-2016? This flagpole was installed in 2016.

On 10-17-2016 at 9:06AM you responded to my email dated 10-11-2016. Please review my email and please answer the questions that you did not respond to.

I believe that the location of this flagpole and the fact that this flagpole was installed without a construction permit violate several MMCs. Do you intend to keep me informed as to the progress of my complaint and do you intend to enforce any violations of the MMCs? Based on your inspections, what have you concluded and what steps have you taken towards resolving these violations?

Due to the lack of any effective response from you and the noise nuisance that this flapping flag produces, my wife felt compelled to file another complaint. Please treat my complaint and her complaint as two separate complaints and do not notify me about the progress of her complaint. Please supply me with the case number assigned to my complaint.

Please notify me by email that you have received this email and when I might expect a response to this email.

Thank you,

Evan Kaiser



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

MEMORANDUM

DATE: January 5, 2017

TO: Planning Commission

FROM: Angela Gemmer, Senior Planner

RE: 2016-17 Code Amendments: DRAFT Amendment 7 – flags and flagpoles

CC: Dave Koenig, Community Development Director
Chris Holland, Planning Manager
Cheryl Dungan, Senior Planner
Amy Hess, Associate Planner

The following are proposed amendments pertaining to flags and flagpoles that are part of the overall 2016-17 amendments to the Marysville Municipal Code (MMC) – primarily Title 22C, *Land Use Standards*. The need for these amendments arose from a citizen-initiated code enforcement concern pertaining to the proximity of a flagpole to a property line (please see the attached public comments).

During review of the concern, the question arose whether the height and setback requirements applicable to accessory structures such as garages and sheds should apply to flagpoles since the MMC definition of accessory structures identifies flagpoles as a type of accessory structure. An “accessory structure” is defined in MMC 22A.020.020, as follows:

“Accessory structure” means a structure of secondary importance or function on a site. In general, the primary use of the site is not carried on in an accessory structure.

- (1) Accessory structures may be attached or detached from the primary structure.
- (2) Examples of accessory structures include:
 - (a) Garages;
 - (b) Decks;
 - (c) Fences;
 - (d) Trellises;
 - (e) Flagpoles;
 - (f) Stairways;
 - (g) Heat pumps;
 - (h) Awnings; and
 - (i) Other structures.

Since the MMC is mainly silent of accessory structures such as trellises, flagpoles, heat pumps, awnings, and other structures, staff had difficulties identifying how flagpoles should be treated in regards to height and setbacks. Ultimately, due to the fact that the code is mostly silent regarding flagpoles, staff decided that they should be required to comply with the provisions of [MMC Chapter 22C.180 Accessory Structures](#). These provisions require flagpoles not to exceed 20’ in height and be setback a minimum of 5’ from the side and rear lot lines and

provide the minimum required front yard setback for principal structures in the zone (20', but can be reduced to 10' on a case-by-case basis).

When MMC Chapter 22C.180 *Accessory Structures* was adopted, the provisions of the code were intended for such uses as garages, sheds, carports and accessory dwelling units. Therefore, staff decided to research potential amendments related to flags and flagpoles.

In considering amendments to the MMC, staff researched the regulations for numerous jurisdictions throughout the State of Washington and found that most every jurisdictions' code was silent on flags and flagpoles with the exception of the City of Spokane. The proposed amendments are adapted from Spokane's regulations, and incorporate other revisions identified by staff to clarify the applicable standards. These amendments resolve the location and height standards applicable to flagpoles, and provide clarification on aspects of the sign code that pertain to flags.

Amendment 7

Suggested code amendments:

DEFINITIONS

22A.020.070 "F" definitions.

Option 1: "Flagpole" a tall pole from which a flag hangs

Option 2: "Flagpole" means a tall pole on which a flag is or can be displayed; OR

Option 3: "Flagpole" means a staff or pole on which a flag is or can be displayed.

22A.020.200 "S" definitions.

"Sign" means any device, fixture, or placard that is visible from a public right-of-way or surrounding properties and uses graphics, symbols, logos, or written copy conveying a message or image and used to inform or attract the attention of the public, such as advertising or identifying an establishment, product, goods, service or activity. A sign may have multiple faces and advertise multiple on-premises establishments, businesses, products, services, or activities. This definition does not include any flag of any country, state or local jurisdiction. Unless the context clearly provides to the contrary, a "sign" as used in this chapter also includes the "sign structure."

RESIDENTIAL ZONES

22C.010.220 Height – Exceptions to limits.

The following structures may be erected above the height limits of MMC [22C.010.080](#):

- (1) Roof structures housing or screening elevators, stairways, tanks, ventilating fans or similar equipment required for building operation and maintenance; and
- (2) Fire or parapet walls, skylights, chimneys, smokestacks, church steeples, and utility line towers and poles.
- (3) Flagpoles and other similar items with a width, depth or diameter of five feet or less may rise ten feet above the height limit, or five feet above the highest point of the roof, whichever is greater. If these items are greater than five feet in width, depth or diameter, they are subject to the height limit.

22C.010.210 Setbacks – Projections allowed.

Projections may extend into required setbacks as follows:

- (1) Fireplace structures including eaves and factory-built garden or bay windows may project into any setback, provided such projections are:
 - (a) Limited to two per facade;
 - (b) Not wider than 10 feet; and
 - (c) Not more than 24 inches into a side setback or 30 inches into a front or rear setback;
- (2) Uncovered porches and decks, including stairs, which exceed 30 inches above the finished grade may project:
 - (a) Eighteen inches into side setbacks; and
 - (b) Five feet into the front or rear setback;
- (3) Uncovered porches and decks not exceeding 30 inches above the finished grade, and uncovered accessory structures such as flagpoles, lamp posts, signs, radio antennas and dishes, mechanical equipment, play structures, and tennis courts, may project to the property line, provided that flags shall not be displayed in a manner that would cause the flag to encroach onto a neighboring property;
- (4) Eaves may not project more than:
 - (a) Twenty-four inches into a side setback;
 - (b) Thirty-four inches into a front or rear setback; or
 - (c) Eighteen inches across a lot line in a zero lot line development.

COMMERCIAL ZONES

22C.020.190 Height – Exceptions to limits.

The following structures may be erected above the height limits of MMC [22C.020.080](#)(2):

- (1) Roof structures housing or screening elevators, stairways, tanks, ventilating fans or similar equipment required for building operation and maintenance; and
- (2) Fire or parapet walls, skylights, chimneys, smokestacks, church steeples, flagpoles and utility line towers and poles.

SIGN CODE

22C.160.080 Exemptions.

The following signs are exempted from obtaining a sign permit, but must comply with all other requirements of this chapter and with the specific requirements set forth below for each type of sign:

- (1) A change in the face of the sign or advertising copy of an existing, legally permitted, sign.
- (2) Temporary and special event signs meeting the requirements of MMC [22C.160.230](#).
- (3) On-premises and portable commercial or real estate signs meeting the requirements of MMC [22C.160.230](#)(5) and (6).
- (4) Political signs meeting the requirements of MMC [22C.160.230](#)(7).
- (5) Nonelectric signs not exceeding four square feet per face, which are limited in content to the name of occupant and address of the premises in a residential zone.
- (6) Instructional signs, not exceeding six square feet per sign; provided, that foundation, anchorage, attachments and other structural support of the sign and electrical connection require construction permits.
- (7) Menu signs. Foundation, anchorage, attachments and other structural support of the sign and electrical connection require construction permits.

(8) Seasonal decorations. Reasonable seasonal decorations within an appropriate holiday season or during a festival are exempt from this section as long as such displays are removed promptly at the end of the holiday season or festival.

(9) Sculptures, fountains, benches, lighting, mosaics, murals, landscaping and other street furniture and design features, which do not incorporate advertising or identification.

(10) Signs not visible from public way. Exterior and interior signs or displays not intended to be visible from streets or public ways, signs in the interior of a building more than three feet from the closest window and not facing a window, window displays and point of purchase advertising displays such as vending machines.

(11) The flag, emblem or insignia of a nation or other governmental unit or nonprofit organization, subject to the guidelines concerning their use set forth by the government or organization which they represent. ~~Flag poles require a construction permit for structural review.~~

(12) Traffic or other municipal signs, signs required by law or emergency services, railroad crossing signs, legal notices, and any temporary signs specifically authorized by the city council or authorized under policies and procedures adopted by the city council.

(13) Signs of public utility companies indicating danger or which serve as an aid to public safety or which show the location of underground facilities or of public telephones.

(14) Memorial signs or tablets, names of buildings, stained glass windows and dates of erection when cut into the surface of the facade of the building or when projecting not more than two inches.

(15) Incidental signs, including, but not limited to, "no trespassing," "no dumping," "no parking," "private," signs identifying essential public needs (i.e., restrooms, entrance, exit, telephone, etc.) and other information warning signs, which shall not exceed three square feet in surface area.

(16) Flush-mounted wall signs which are used to identify the name and address of the occupant for each dwelling, provided the sign does not exceed two square feet in sign area.

(17) Gateway entrance signs. Gateway entrance signs that comply with the city of Marysville gateway master plan. Foundation, anchorage, attachments and other structure support of the sign and electrical connection require construction permits.

Attached are the following documents related to the proposed code amendment:

1. Letter from Mr. Evan Kaiser to Gloria Hirashima, dated November 8, 2016
2. E-mail from Gloria Hirashima, CAO, to Mr. Evan Kaiser, dated November 18, 2016
3. Letter from Mr. Evan Kaiser and Ms. Patricia Kaiser to Marysville City Council
4. E-mail from Mr. Evan Kaiser to Janis Lamoureux, dated December 21, 2016
5. E-mail from Dave Koenig, CD Director, to Mr. Evan Kaiser, dated December 22, 2016

Community Development staff requests the Planning Commission review the DRAFT amendments related to flags and flagpoles and provide direction on finalizing the proposed code amendments for public review.

City of Marysville
Chief Administrative Officer
Gloria Hirashima

11-8-2016

Many sources of information and many politicians consistently state that "Our nation is a nation of laws". While our nation has many laws, most everyone knows that many violations of our laws are not enforced. Does the city require conformity to the Marysville Municipal Code and will the city enforce violations of the MMC?

Due to the ineffective response to my complaint, my wife has filed a separate complaint listing different issues. I indicated to Mr. Koenig that I do not want these cases combined. My complaint was made by me. My wife's complaint was made by her. We are two separate individuals. The two complaints are based on some similar and some dissimilar issues. I do not want to obtain information about my complaint from my wife. I requested that Mr. Koenig inform me of my case number on 10-28-2016. On 11-7-2016, my wife was discussing her case with Mr. Koenig and he informed her that the cases have been combined. He has not informed me of the case number, but gave the case number to my wife. The case number is reportedly CE16-000433. I do not want to be supplied with second hand information. My wife's case involves issues that are not a part of my complaint. I want answers to my questions not her questions. Combining these cases would limit my options. The fact that a second case was filed is due to ineffective and inadequate processing of this case by the Community Development Department.

Have you contacted Mr. Koenig or discussed me with Mr. Koenig since 11-2-2016?

City officials or executives are on a salary. If they work more than 40 hours per week, are they paid for overtime?

Who evaluates the city officials and executives job performance?

Should the code inspectors be proactive? For example to reach the property with the flagpole, they must pass a readily observable and dilapidated shed that is a health and safety hazard. Should they notice, investigate and resolve this issue? If not, this will be my next complaint. Some nearby neighbors have reportedly complained about rats and this may be the source. Even if it is not the source, it is a health and safety issue. In addition, Mr. Koenig was informed by me on 9-7-2016 that two other flagpoles were installed recently on nearby properties. One is across the street the other is on 30th St NE. I asked that he check on these flagpoles. Did anyone check to see if construction permits were obtained for these flagpoles? If improperly constructed, one of these flagpoles could fall on pedestrians; the other appears not to be a danger to the public. Must I file complaints to protect the city's population?

How I met Mr. Koenig.--- A planner acted inappropriately, gave me incorrect answers to my questions, stated that I must obtain a permit for a flagpole and hung up the phone. My questions were about possible contradictory information in the MMC and at no time did I state that I was going to install a flagpole. I phoned Mr. Koenig who replied with the same incorrect answer as this planner, but did listen to my explanations of the erroneous comments and indicated his agreement with the correction of his and her incorrect statements.

I am supplying you with copies of all of the correspondence with Mr. Koenig and Mr. Mcleod and some of the details of my conversations with Mr. Koenig on 9-7-2016 and 10-7-2016. .

Even when words and terms are defined, these definitions are subject to different interpretations. When words and terms are not defined more problems are created. There are errors in the MMC, and terms like flagpole that are not clearly defined are open to a good deal of misinterpretation. Who should I contact about errors in the MMC?

First I would like to review Mr. Koenig's response dated 11-4-2016 which is his response to my email dated 10-28-2016. Very few of my questions were answered and I have not yet received a case number from Mr. Koenig. I have underlined the sentences which create confusion, are unclear, contradict previous statements, or indicate a lack of response to my questions in the email dated 10-28-26. I will discuss them with you. Having completed this review, I find this response totally inadequate.

PARAGRAPH ONE

First sentence---An enforcement letter has been sent—Enforcement letter for what? Violating the setback requirement? Violating the requirement to obtain a construction permit prior to construction? Violating the public nuisance codes? If this flagpole violates the setback requirements, how can the owners obtain a permit? What has this department concluded based on the numerous inspections of this site? *On 11-7-2106, my wife talked to Mr. Koenig about her complaint and was asked if she wanted the letter sent. I do not want second hand information. Was the letter sent by 11-4-2016 or not?*

Second sentence—How can the owners obtain a permit after construction, when the plans must be reviewed before construction begins? One would hope that an inspection would be made during construction to ensure compliance with the plans. The location of this flagpole violates the setback requirement. How can a permit be obtained when the presence of this flagpole is a violation of the setback code? If the city is anticipating that the owners are going to move the flagpole to meet the setback requirements, the city and the owners should make sure that the noise generated by these flapping flags does not violate the noise levels that would make this flagpole and flags a nuisance. Noise levels are not a part of my complaint. This statement is just an example of what will occur if this flagpole is allowed and if noise levels are exceeded. According to articles that I read a flapping flag breaks the sound barrier producing unacceptable levels of noise. According to the MMC, permitted noise levels at night are very low, and during the day, any sustained noise levels are low. Are noise nuisance complaints enforced if found to be valid?

Sentences three and four —I did read my email and I am aware of the information conveyed to me on 10-17-2016. I requested the dates of all inspections.—Does this email adequately respond to my request? I do not see the dates of any inspections other than the one on 10-17-2016 (one day after the passage of the anticipated storm). On 10-7-2016 Mr. Koenig verbally indicated to me that he had a picture of this flagpole. I asked in my email dated 10-19-2016 “Was this picture not adequate?” (based on my observance of this flagpole any picture taken prior to 10-7-2016 would show flags flying). I have not received an answer to this question.

This flagpole was reportedly inspected multiple times. What does the inspector inspect? Please explain in detail how each inspection was completed, the date of each inspection and whether the inspector actually approached the flagpole and looked at the type of construction. Even in the lowered position the light is still on the top of the pole and the rotating flag collars are still attached to the flagpole. Does the inspector know that this is a telescoping flagpole? The photograph sent to me on 10-17-2016 shows the light on top of this flagpole.

Sentences five and six—I disagree with Mr. Koenig’s conclusion that the lowered flagpole is not a code violation. His conclusion is contradictory to the visible evidence and his earlier statements. I discussed many matters with Mr. Koenig on 9-7-2016 and one was the definition of a flag pole. Although comments in the MMC indicate that flagpole is defined under flagpole, there is no definition in the F listings. Mr. Koenig stated that a flagpole is defined as an accessory structure and is subject to the setback requirements. Mr. Koenig indicated that a flagpole must be installed outside of the five foot side yard set back. Since the city codes do not describe a flagpole, Mr. Koenig agreed that a typical definition (a pole from which to hang a flag) was the definition that was acceptable to the city. As we discussed anyone would recognize a flagpole. As of October 17, 2016, this definition has apparently been changed, requiring that a flag be displayed on a flagpole in order for it to be considered a flagpole. If the owners were asked if this was a flagpole, I believe that they would affirm that this is a flagpole. Even when lowered, the light and rotating flag collars would indicate the purpose of this flagpole. The picture supplied to me on 10-17-2016 shows the light on top of this flagpole. What other purpose would this pole have? At any of the inspections, did the inspector physically examine this flagpole, not just view it from a distance? I believe that the conclusion that this lowered flagpole is not a flagpole is incorrect. By postponing the examination of this flagpole for over four weeks, this department chose the one week when a winter storm was forecast. Why inspect this flagpole twice during that time, apparently a few days apart, when any reasonable person would have lowered their flags?

Sentence 7 –Mr. Koenig did state on 10-7-2016 that he had a picture. Why have I not received a copy of this picture? As mentioned earlier, did this picture show flags flying? I asked for the dates of all inspections. Have I received any date other than 10-17-2016?

Sentence 8—On 10-11-2016, I sent an email to Mr. Koenig and one to Mr. Mcleod. Mr. Koenig replied to my email that was addressed to him and the email addressed to Mr. Mcleod on 10-17-2016. To clarify the email for which I wanted a response to questions that were not answered, I specified the date and time of Mr. Koenig’s reply to my email dated 10-11-2016. In Mr. Koenig’s response dated 10-17-2016 at 9:06AM, I do not find any answers to any of my questions. Mr. Koenig’s conclusion that this pole is not a flagpole contradicts his definition of a flagpole that was stated on 9-7-2016. The questions I ask in this email should be answered, because this is a flagpole on which flags are flown. I am requesting an answer to each and every question that I asked in the email dated 10-11-2016.

Mr. Koenig may be referring to the email sent to Mr. Mcleod and answered by Mr. Koenig. If so, I would like answers to the following questions that were asked in this email:

Answer—Public Nuisance is defined in code MMC 4.02.020. My question was is there a definition of a nuisance at common law in the MMC? If not please provide the definition of this term used by your department. Should I be supplied answers? As a new question, this section implies or states that a private nuisance at common law is a public nuisance. If one does not know what a private nuisance at common law is and the MMC does not define the term, then should one assume that all private nuisances are public nuisances? I believe that this section needs clarification.

Citizen complaints

This section states that any aggrieved person may file a written complaint alleging that a violation of the MMC has occurred. My questions pertain to violations of the code. Code violations would not be consistent with permits that are consistent with the code. Please answer my question, which is about an apparent contradiction. If several individuals file separate complaints are the cases combined? If so, is each individual notified of the progress of the complaint or is the information given to one individual who is expected to inform the other complainants?

PARAGRAPH TWO

A flagpole is an accessory structure. Has this department never had a complaint about an accessory structure? Prior to my meeting with Mr. Koenig on 9-7-2016 I sent an email dated 8-30-2016 suggesting that he review the matters that I wished to discuss. At this meeting, the answers that I received were reportedly the department's positions on many matters including flagpoles. If he had no idea about how to handle a flagpole complaint, how can his statements to me have any validity? I find the need that this matter be reviewed by the staff somewhat puzzling based on the impression that Mr. Koenig exhibited at our meeting. If his response was going to exceed 3 weeks one might expect an update. I waited over 4 weeks to request an update and certainly some of the minor issues should have been answered by then. For example, researching whether a construction permit was issued would require very little time or effort. Between 9-7-2016 and 10-7-2016 this property was reportedly inspected, possibly several times and at least one picture was taken. What were the results of these inspections and the picture which should have shown a flying flag?

I believe that I have never requested an expedited processing of this complaint. I relied on your estimate. I did point out the unexpected, lengthy delays. As the Director, your estimate should be reasonable and if not I should have been informed. Why would your department inspect this property apparently within 5 working days when you were apparently unable to adequately investigate this property in over 5 weeks? Prior to the recent mailing of the enforcement letter were the owners contacted? Was a door hanger left? Was a close physical inspection of this pole conducted and did your inspector not notice the light and rotating flag collars? The light is visible in the photograph that you sent to me in the 10-17-2016 email.

PARAGRAPH THREE

I do not believe that my complaint mentions any noise issue. I believe that my wife's complaint mentions the noise from these flags. I want our cases to be separate and I do not want responses that should be directed to her sent to me. Please discuss any noise comments with my wife. I believe that if I am asked a question that as a typical act of courtesy that I should reply to the question. I have not discussed this noise issue with my neighbor and I do not believe that in my dealings with Mr. Koenig that I mentioned the noise issue. I do not intend to discuss the noise issue with my neighbor. I know for a fact and based on my and my other neighbors' and friends' experiences that discussing a noise issue is not the quickest way to solve a noise problem. It is nice that you encourage neighbors to work out noise issues, but there are noise nuisance laws. I do not believe that my complaint mentioned a noise issue and I did not mention the noise issue until earlier in this statement. If I did, please advise me of the emails on which these comments appear, and where on my complaint noise issues are mentioned.

As I discussed with Mr. Koenig, I did not want to proceed with a complaint about the violations that are present (not obtaining a construction permit and the violation of the setback requirements) without first consulting with him. Based my conversations with Mr. Koenig and Mr. Koenig's statements on 9-7-2016, I had no doubt that both violations were valid. Although a thorough investigation may not agree with my conclusions, I deserve a reasonable and timely response. I am amazed that such a simple investigation could take this much time and require so much effort and time on my part. I believe that I should have received many more updates with respect to the reasons for the delay and the lack of any substantial progress. I also believe that I should have received thorough and complete responses to my questions. I would appreciate a response by email to each of the issues and questions that are presented in this document.

I believe that the fact that I had to prepare this multipage response to a three paragraph email illustrates serious problems with this department and the director of this department. I would like a response

from Gloria Hirashima explaining the basis of her review of this matter and her conclusions regarding the inadequate service, and contradictory and inadequate responses that I have received in this matter.

Thank you,
Evan Kaiser
Evan Kaiser

From: Gloria Hirashima
Sent: Friday, November 18, 2016 5:08 PM
To: 'epkservices@comcast.net' <epkservices@comcast.net>
Subject: Response to meeting

Dear Mr. Kaiser:

Thank you for contacting me regarding your concerns at our meeting last Tuesday 11/8/16. I have reviewed the correspondence you provided dated 11/8/16 as well as emails received this week concerning the flagpole located at 2914-73rd Avenue NE. The case number is CE16-000433. I shared your letter with Dave Koenig and he has provided me with an overview of the code enforcement investigation and determinations made by the Community Development Department. In my response below, I am answering several inquiries/questions that appeared directed at me. I am not responding to issues that I believe were covered, or concluded by Dave's email responses as I do not wish to duplicate or confuse matters.

I understand that you feel our definitions for flags, flagpoles and how we address permitting is inadequate. I have discussed this with the department and we share your concerns. We will be reviewing the requirements for flags, flagpoles and updating/clarifying the municipal code as appropriate (sign code and building or land use requirements). I believe this can be completed within the next 3 months.

I am aware that Dave responded to your direct inquires to the department with an email response this afternoon. It is my understanding that staff did confirm a code violation in that 1) the pole did not have a permit issued; and 2) the pole did not meet minimum setbacks for the structure. Mr. Koenig did meet with your neighbor to review the situation and she immediately consented to discontinue use of the flagpole and relocate the structure to meet required setbacks and to obtain a permit for the new location. The department did issue a permit for the relocation, subject to meeting setbacks. The old flagpole has been retracted and the flag removed. This same structure will be relocated to the new location. With the relocation of the flagpole to the new location, under a valid permit and meeting setback requirements, the case file on CE16-000433 will be closed.

I will confirm that we do investigate noise complaints. If the complaint is valid, we will enforce the codes. I understand that you did not file a noise complaint but have raised the possibility of a future concern in your letter. At this time, the flag has been removed. In future, the pole will be moved to a new location that will be further removed from the property line.

Regarding your question as to what 4.02.020(7)(b) "A nuisance at common law" means. I have no idea what this phrase means and would concur that the section should be clarified or removed if it cannot be better defined or understood. We will address this during our review of the flag requirements and definitions.

You asked if several complaints are typically combined. The answer is yes and this has been historic practice by the department. If several complaints are made regarding the same location, the department will combine the complaints into one CE file and number. This is desirable from a tracking and efficiency standpoint. The department does not have a uniform policy as it relates to communicating with diverse complainants, but is willing to accommodate requests to meet customer service needs. For instance, in your case, you and your wife made separate complaints and made it

known that you wished to have separate responses. The department is sending separate responses now as a result.

I realize that when we met you were dissatisfied with the City's level of service and response. In my discussions with the department it was clear that they were attempting to respond to your requests for information, as well as work with the neighboring property owners to address the code violation. Your neighbor is being cooperative in working with the department to understand and meet city code requirements. While I understand that you feel we should have addressed this sooner, I hope that the department's and your neighbor's actions this past week demonstrate our mutual efforts to respond to your concerns.

Best wishes,

Gloria Hirashima

Gloria Hirashima
Chief Administrative Officer
City of Marysville
1049 State Avenue
Marysville, WA 98270
(360) 363-8088
ghirashima@marysvillewa.gov

Mayor Nehring and Council Members we are Patricia and Evan Kaiser and we reside at 2910 73rd Ave NE Marysville, WA. We are appearing before you to address three main issues. We can supply you with copies of all of the emails regarding our complaint if you want to review them. We have extracted comments from some emails. We believe that these extracted comments represent the intentions of the author and are not taken out of context. We can supply you with complete copies of all of the referenced emails, if you prefer. We believe that we are detail oriented but we know that we and people in general make mistakes. Mr. Koenig, the director of the Community Development Department repeatedly either ignored or refused to answer many of our questions. He refused to investigate our noise and nuisance complaint. Must authorized city employees enforce the MMCs as written? Can city employees change or ignore these codes without review by the council? In addition, there are too many illustrations of incomplete, inaccurate, unclear, and confusing sentences in his responses. As examples of these types of correspondence we have included several complete emails.

We ask that the council review all of our information and notify us of your conclusions and any actions that you take as a result of your review and analysis of this data.

The three main issues are inadequate codes and building permit #B16-0428, the poorly conducted investigation into our complaints which is case number CE16-000433, and the reported unauthorized change in policy for collecting fees for flagpole plan reviews.

First Issue Inadequate codes and Building permit #B16-0428 issued on 11-9-2016

We are concerned about several inadequacies in some sections of the MMC. Evan met with the Marysville CAO on 11-8 and we received her response to this meeting on 11-18. We quote the following from her response: "I understand that you feel our definitions for flags, flagpoles and how we address permitting is inadequate. I have discussed this with the department and we share your concerns." The CAO indicates that some of the inadequate codes will be updated and clarified in the next three months. Our concern is that during the revision time we and the citizens of Marysville will needlessly be exposed to the safety and health violations created by improperly installed flagpoles. The permitting process is inadequate and sometimes city employees do not adhere to and enforce the codes.

Because of the inadequate codes, we believe that our citizens must be protected and that no permits for flagpoles should be issued until the code specifies the structural integrity requirements for each flagpole and limits the size and number of flags that may be displayed on flagpoles. Construction work on any flagpole that is currently in progress should be stopped. Work on **this** permit should be stopped because the permit was issued in violation of the MMC.

Comments on Building permit #B16-0428 issued on 11-9-2016 **Exhibit A**

Permit #B16-0428 should be revoked and all work on this permit should be immediately stopped due to the code violations mentioned in the following paragraphs.

We are extremely concerned that a permit was issued by a city building official on 11-9-2016 and that the director has stated that this permit meets all of the codes in the MMC. The flagpole that will be installed will violate several codes in the MMC. The MMC defines a flagpole as an accessory structure.

The approved permit allows construction of a 21 foot high flagpole. The code has a 20 foot height limit for flagpoles, which are accessory structures. This building permit was processed without the required structural review. The City has been unable to answer our questions about the definition of a structural review and who completes these reviews. The permit does not limit the size of the flags and based on information in our statement large flags could easily collapse this pole in light winds.

The MMC specifies that the height of an accessory structure cannot exceed 20 feet. A flagpole is an accessory structure. This permit and the instructions to install this flagpole clearly indicate that this is "THE LIBERTY" model telescoping flagpole. **Exhibit B** The variable height is 17' to 21'. There is no restriction on this permit requiring that the pole not be extended to 21 feet. If such a restriction were imposed, the city could not adequately verify compliance. Whenever flags were displayed on the **existing**, illegal flagpole at this location, the flagpole was raised to the highest position. We learned on 11-22 that this height was 21 feet, which violates the code's maximum 20 foot height. This building permit is to locate the existing, illegal flagpole to a new location and this flagpole will still have a height of 21 feet, thereby violating the code.

A flagpole is an accessory structure. Approval of this building permit violates the requirement that a flagpole cannot exceed 20 feet in height. MMC.180.030 item1B. "The height of all detached accessory structures shall not exceed 20 feet", etc. Does the flagpole height listed on the EZPOLE plans include the light that is on top of this pole? This information does not include the gauge of the aluminum flagpole. The gauge of the flagpole affects the structural integrity. The instructions indicate that the flagpole can accommodate two 3' by 5' flags. The permit does not limit the size of the flags and based on information in our statement one large flag could easily collapse this flagpole in light winds.

The warranty on this flagpole is: *WARRANTY on all its flagpoles and mounts which covers damage and/or replacement costs for poles and mounts damaged as a direct result of **wind gusts** up to 50 mph. For safety reasons – EZPOLE strongly advises customers to lower poles in instances where wind speeds exceed or are expected to exceed 50 mph.* Is this guarantee an assurance of structural integrity? Based on these comments, if damaged by a sustained wind velocity of 30 mph damage and/or replacement costs for poles and mounts will not be covered. How structurally sound is this flagpole? The city should have some regulations for when this flagpole must be lowered and when other flagpoles of various heights and qualities should be lowered. We think that the codes should require that all flagpoles be lowered in winds of 20, 30, 40, or 50 miles per hour, depending on the height, quality of the flagpole and a structural review certifying that these flagpoles can withstand the rated wind speed, with or without flags.

Evan was informed by the building department that the plans for this flagpole were reviewed by a certified plan reviewer. Based on Evan's quickly conducted, partially completed research, a plan reviewer cannot complete structural reviews. A flagpole must have a structural review. MMC 22C.160.080 Exemptions.

11) The flag, emblem or insignia of a nation or other governmental unit or nonprofit organization, subject to the guidelines concerning their use set forth by the government or organization which they represent. Flag poles require a construction permit for structural review.

We do not consider the plan review by the city building official to be a structural review. Structural Review is not defined in the MMC. Was a structural review of this flagpole conducted by the Community Development Department and this building official before issuing this permit? There is none in the file. The city has been unable to answer our questions about the definition of a structural review and who completes these reviews. Are the council's approved code ordinances being ignored? Can any city employee decide not to adhere to the approved MMCs?

We did locate the following comments on the internet: Structural Review: The purpose of the Structural Review is to provide independent verification that the structural design of the Structure is in general conformance with the requirements of the Building Code, and all related structural codes and technical standards. A structural review would assure proper grounding, strength, wind resistance, and other

relevant engineering requirements. We have not been provided adequate information from the city and this is the best definition that we located.

City employees have not adhered to the codes during the processing of this permit. Because the processing of this permit violated these codes, we request that this permit be immediately revoked and that all work on the installation of this flagpole be immediately and permanently halted.

On 11-22 Evan contacted the engineering department and asked whether this department conducted structural reviews and if they did, could they define a structural review. Evan hoped to find out the definition of a structural review and who would complete this type of review prior to this meeting on 11-28. Having received no response, later in the day Evan called back and was informed that his request had been forwarded to the planning department. Evan explained that he wanted an answer from the engineering department. Evan's question is "Does the engineering department process structural reviews and what constitutes a structural review"? Evan was told that he would receive an answer from the engineering department. As of 11-27, we are still waiting for an answer.

Evan does not know if a complete and correct explanation of his question was forwarded to the planning department. Evan did receive an email from the director dated 11-23 that pertains to this building permit. The director states that "The Building Official has accepted the manufacturers specification for installation as being adequate for installation." "No additional structural review is being required for the flag pole."

Evan was informed that this plan was examined by a plan reviewer. Plan reviewers cannot process structural reviews. Does the last sentence in the preceding paragraph indicate that a structural review was completed? Evan was given a complete copy of the building permit file for this permit on 11-22-2016. We have attached a copy of the permit for each council member. **Exhibit A** Should the review by the building official assure proper grounding, strength, wind resistance, seismic loads and other relevant engineering requirements? Should the council require this information for this permit? What indication does the building official have that this flagpole will withstand a sustained wind of 30 miles per hour with or without one or two flags? What happens if a 5'X8' flag is raised on this flagpole?

Following is an older code requirement for residential flagpoles from an unknown city. Our permits should not be issued without this type of protection. Is this ordinance an example of a structural review? Should the council require a similar ordinance? Should a structural review include at least the following: All applications for flagpoles, towers or tower structures requiring a building permit shall include plans and specifications stamped by a professional licensed engineer to assure proper grounding, strength, wind resistance, seismic loads and other relevant engineering requirements?

14.17.040 Permits required.

A. No flagpole, tower, or tower structure 15 feet in height or greater shall be erected or constructed without first obtaining a building permit pursuant to the 2006 International Building Code, Section 105.1, Permits Required, as amended.

B. Unless additional review is required pursuant to a building permit application for a flagpole, tower, or tower structure shall be reviewed for compliance with this chapter and all applicable codes and a decision to approve, approve with conditions, or deny shall be issued within 21 days of receipt of a fully complete permit application. All applications for flagpoles, towers or tower structures requiring a building permit shall include plans and specifications stamped by a professional licensed engineer to assure proper grounding, strength, wind resistance, seismic loads, and other relevant engineering requirements.

C. Metal flagpoles requiring a building permit shall be engineered and constructed in accordance with the American National Standard Institute – National Association of Architectural Metal Manufacturers

(ANSI/NAAMM) Guide Specifications for Design of Metal Flagpoles, FP 1001-97 as amended, and as adopted in the 2006 International Building Code, Section 102.4. [Ord. 1336 § 1, 2009.]

Second Issue

We do not want other people subjected to the problems we experienced with the director of the community development department during the investigation of our complaint about the code violations for an illegally installed flagpole and the noise and nuisances caused by the flapping flags. He refused to inspect or investigate our noise and nuisance complaint when the flags were up and flapping. We believe that he should process citizen complaints in a more efficient, effective, timely and professional manner. He should conform to the MMC and not create his own unsupportable interpretations of these codes. He has refused to answer many of our questions.

We have included several emails as examples illustrating the lack of responses to our questions and a failure to clearly communicate ideas. The response to our email dated 10-28 is dated 11-4. Included is our email dated 10-11 and the response dated 10-17. The 10-28, 11-4, 10-11 and 10-17 emails and the letter dated 11-4 are **Exhibit C**. Patricia and Evan both sent emails dated 11-15. The responses to both of these emails dated are dated 11-18. The responses to these emails and the letter dated 11-9 are **Exhibit D**. Our response to the 10-28 email was discussed with the CAO. We believe that the "enforcement" letter issued on 11-4 **Exhibit C**, does not conform to section 4.02.040 which is listed on Evan's 11-15 email. Also listed on Evan's 11-15 email is Item number 5 Inspections of section 4.02.040. Was this section strictly adhered to during this investigation? We believe that the director's conclusion that a telescoping flagpole in the lowered position is not a flagpole is not realistic or supportable. In the lowered position, the rotating collars and the top light are still in place. These telescoping flagpoles should be lowered when wind velocities increase. In this lowered position, this flagpole is still a flagpole.

In both of our emails dated 11-15 we requested that Mr. Koenig review the noise and nuisance codes that are stated in the MMC, the WACs and the RCWs. His response to Patricia's email clearly indicates that he misinterpreted or did not understand these codes. He states that he will enforce these codes by using requirements that differ from those specified in MMCs 6.76.020 and 6.76.040. The MMCs codes were approved by the city council and should be adhered to. All applicable WACs and RCWs should be complied with. The emails, letters and data in this and the preceding paragraph will be discussed later in this statement.

Our neighbor installed a telescoping flagpole and flew a flag and a banner from this flagpole. The flag and banner were flown day and night. Installation was earlier this year and presented intermittent noise problems until the consistent winds developed and the wind velocity increased. We, our friends, neighbors and relatives have all had experiences with problems with neighbors. We have learned that the best method to handle these matters is to check the laws and start with enforcement of the laws. The flagpole code violator used this method to contact the city about a barking dog. Evan indicated that he would be a witness if this neighbor wished, which she did not. The city warned the dog owner and the problem stopped.

As the wind velocity and frequency increased the flapping flags created a severe noise and nuisance problem. Patricia and our daughter had their sleep interrupted many times on windy nights. Evan is hearing impaired and only noticed the noise when working in the yard without his hearing aids.

Evan met with the director of the community development department on 9-7-2016. Evan believed that the telescoping flagpole that our neighbor installed very near the side yard property line violated the setback requirement, was constructed without a construction permit and that a structural review had not been completed before installation. The director indicated that if Evan's beliefs were true, that the

flagpole must be removed. This process would take two to three weeks if the code violators did not contest enforcement of the code. The director indicated that Evan need not file a complaint and that the director would investigate this matter.

When finally contacted on 11-4, the code violators agreed to comply with the director's enforcement letter, which required them to obtain a building permit, not remove this illegal flagpole, a code requirement. The director was aware that this flagpole violated the MMCs prior to 10-7. The director could have investigated the noise and nuisance complaint between 10-25 and 11-4 but refused to do so. The director provided some unconvincing excuses for the delay in investigating and enforcing these violations. How could this process take over two months? The code violating flagpole is still in place. The director could have verified if a construction permit had been issued for this flagpole in a matter of minutes.

On 10-7 Evan called the director. Over four weeks had passed and the investigation should have made substantial progress. The director indicated that he had a picture of the flagpole and the flying flags. We repeatedly requested the date of this inspection and asked whether action could not be taken based on this picture. Just last week on 11-21 we were notified that there was a picture, but that the picture was destroyed. We still have not been given the inspection date on which this picture was taken. We have repeatedly requested the date of this inspection and all inspections and have received only vague references with no specific dates. We were not notified until 11-21 that the code enforcement officer did note the code violations during his inspection that was completed sometime prior to 10-7. No action was taken until 11-4.

Just prior to Evan's phone conversation with the director on 10-7, Evan also spoke (by phone) with the code enforcement officer about another matter. During this discussion Evan was told that a complaint must typically be filed before any action is taken. During the conversation with the director, the director indicated that Evan should consider filing complaint. Evan filed a complaint on 10-7.

During our review of the MMC we became aware of the noise and nuisance codes and on 10-25-2016 Patricia filed a complaint that was similar to Evan's, but included the noise and nuisance violations. The director combined our complaints, but only processed Evan's. The director did not investigate the noise and nuisance portion of Patricia's complaint. Evan advised the director on 10-28 that Patricia had filed a noise and nuisance complaint. No action was taken on Patricia's noise and nuisance complaint. In a conversation with Patricia, the director refused to respond to Patricia's question, which was "Will you enforce the code?" Even when the code inspector later noticed that the flags were flying after 10-25, no inspection for noise or nuisance was made. We have repeatedly requested the dates of these inspections and have received vague references with no specific dates. (Other than the 10-17 inspection) Why was Patricia's complaint not investigated?

The city had no information about the decibel levels produced by flapping flags until we submitted some data that indicates that flapping flags, a cracking whip and a snapping towel can break the sound barrier and produce sounds exceeding 200 decibels. The MMC maximum permitted nighttime decibel levels can vary from 45 to 50 decibels and during the day from 60 to 70 decibels. These facts should lead one to strongly suspect that these flapping flags would violate the noise and nuisance codes

As of at least 10-7, the director was aware that this flagpole violated the MMCs. He knew that the flagpole was extended and that flags were flying. A picture was taken and somehow destroyed, but the picture is irrelevant. He knew this was a flagpole. This flagpole was installed without a construction permit or a structural review and violated the side yard setback yet no action was taken until 11-4.

Sometime between 10-10 and 10-17 this flagpole was inspected twice, just before and just after the big winter storm that was predicted. We have repeatedly requested the dates of all inspections and have been denied this information. On 10-17-2016 we received a photo showing the telescoping flagpole reduced to less than six feet with no flags attached. This flagpole status was because of the impending storm that was expected to arrive between 10-13 and 10-16. The inspector apparently did not note the light on the top of this flagpole or the rotating collars that flags can be attached to. This flagpole is located in the front yard and the inspector could have easily approached and examined it. If the code violators had been contacted by any of the means suggested in the code, we believe that they would have readily admitted that this was a flagpole. Were the codes listed in 4.02.040 Item 5 Inspections adhered to? These codes and MMC 4.02.040 are listed in Evan's email dated 11-15 which is included as **Exhibit D**. This pole was sold as a flagpole and used for several months as a flagpole. This is a telescoping flagpole and the fact that no flags are attached and that the height has been reduced does not change this fact. The plan for building permit B16-0428 proves this statement.

This flagpole was inspected sometime between 10-10 and 10-17, and on 10-17. On 10-17 the director indicated that the flagpole had been reduced in size to 4 to 5 feet and there was no flag being flown or set up for a flag. The rotating flag collars were on this flagpole, when in the lowered position, and a flag could be easily attached. From what distance did the inspector inspect this flag? On 10-17, the director stated and we quote "Based on this observation the pole is not being used as a flagpole". The director concluded that this lowered flagpole was a pole and did not violate the MMC. The location of this flagpole violates the code and does not change when the flagpole is lowered. We do not believe that this conclusion can be supported using any reasonable logic. The MMC only requires the presence of the flagpole, not the use.

Evan asked for an explanation as to how this flagpole, which was sold as a flagpole and used as a flagpole suddenly, becomes a pole, which does not violate the MMC. This is clearly a flagpole. We have not received a response to our requests. This flagpole was inspected at an unknown date between 9-7 and 10-7 when both flags were flying. The director knew that this was a flagpole at that time. Why was any enforcement action delayed until 11-4? This flagpole had been raised to the highest height and two flags were flown for many months prior to this storm. The director was advised of this fact. As of 11-22 we know this height to be 21 feet and this height is a code violation.

The director was aware that the flagpole was extended and flags were flown sometime prior to 10-7 and between 10-17 and 11-4 but refuses to disclose the date of inspections (other than 10-17). He should know that this flagpole violates at least three codes, yet does not take any action until 11-4. In this "enforcement" letter, the director again states that when the flagpole is in the lowered position and not being used as a flag pole, the pole is not considered a violation of MMC. These statements about the height, use and whether flags are displayed contradict the definition that I presented to him on 9-7 and to which he agreed. He also agreed on 9-7 that flagpoles are readily recognizable. We believe that his interpretation of what is and what is not a flagpole is unsupportable. The director agreed to the following definitions on 9-7:

Simple Definition of flagpole

A tall pole from which a flag hangs: a pole used to display a flag

Full definition of flagpole

A pole on which to raise a flag.

Source: Merriam-Webster's Learner's Dictionary

Would any of the council members conclude that a flag must be hanging from a flagpole in order to recognize a flagpole as a flagpole? Fixed and telescoping flagpoles have hardware that clearly indicate

the use to which the flagpole will be used. Does lowering a telescoping flagpole to 4 or 5 feet transform a flagpole to a pole?

In his 11-4 email, the director stated and we quote: "An enforcement letter has been sent to James and Christine Henkleman @ 2914 73rd AVE NE on the flag pole this week." "Both of those visits the flag pole was lowered and had no flags on it." "I communicated to you that the lowered pole was not a code violation." Why does the flagpole suddenly become a pole in the previous sentences? In the first and second sentences this structure is a flag pole. In the third sentence the lowered pole is not a code violation. The statements in these sentences are examples of the confusing and contradictory nature of much of the correspondence provided by the director. This structure is clearly a flagpole. An enforcement letter could not have been sent if there were no code violations. To be a code violation the flagpole had to violate the MMC. The reason the flagpole violates the MMC is because the flagpole is defined as an accessory structure, violates other codes and must meet the setback requirements. In the lowered position, this flagpole still had the light and rotating collars in place. This is clearly a flagpole.

In his 11-4 email, the director stated "We have never had a complaint about a flag pole." A flagpole is an accessory structure. Has there never been a complaint about an accessory structure? He spent time reviewing the code and asking staff about the intent of the code, when written. Evan requested, by email, that the director review the definition of a flagpole and many other definitions and codes prior to their meeting on 9-7. On 9-7, the director responded quickly to Evan's questions and gave Evan the impression that the director was confident of his answers to Evan's questions. Evan suspected some of the answers were not complete or accurate, but Evan did not challenge the director's statements. If the director was not knowledgeable about these codes at that meeting, how could he state unequivocally to Evan that **if** the five foot side yard set back was violated and **if** the flagpole had been installed without a construction permit and a structural review that the flagpole would be removed? Evan took notes at this meeting and based on these notes and Evan's memory, Evan has no doubt that this was the director's response.

The director did mention the noise from the pole in this email. The noise was not generated by the pole, but from the flapping flags, and he did not investigate our noise and nuisance complaint. Instead he encourages people to take action. We would encourage the director to do his job, which is to investigate complaints efficiently, effectively, timely and in a professional manner. He had ample opportunity to do so and failed to even attempt to investigate our noise and nuisance complaint.

On 11-9, by email and letter, the director indicated that a building permit was issued to the violators to relocate their flag pole to a location which would meet the MMC. This permit and the instruction to install this flagpole clearly indicate that this is "THE LIBERTY" model telescoping flagpole. This information does not include the gauge of the aluminum pole. The instructions indicate that the flagpole can accommodate two 3' by 5' flags. The permit does not limit the size of the flags and based on information in our statement one large flag could easily collapse this pole in light winds. As mentioned earlier, this permit should be revoked because the permit processing did not conform to the MMC. This permit for this 21 foot high flagpole exceeds the 20 foot height limit for accessory structures. This permit does not restrict the pole height to 20 feet or less. This building permit was processed without the required structural review. Also, the MMC has noise and nuisance regulations. Flapping flags hung from this 21 foot high flagpole will probably violate these codes.

The proposed, new location will be about 15 feet from our property and the noise generated by the previous flags was excessive and noticeable inside our home at a distance of at least 25 feet. Flags flown from this new location will almost certainly violate the noise and nuisance regulations. If the flagpole is ever installed with a proper permit, in a location that meets all city codes and if the noise generated by the

flapping flags does not violate the noise and nuisance levels, there will be no problem. Our other, adjacent, neighbor had a flagpole for many years and there was no problem.

On 11-18, **Exhibit D**, the director notified us that he understands that the new location of the flagpole will be away from our home and near the garage. We do not consider the new location indicated by the stake that is now located in the ground to be away from our home. Has the director visited this site? This stake is about 15 or so feet from our property line. This flagpole could easily be located on the other side of the garage and this location would be at least 25 to 40 feet from the nearest neighboring home. Should the city require installation in a reasonable location? We advised the code violators that if the noise from their flags exceeds the allowable limits that a complaint will be filed. The CAO has assured us that noise and nuisance code violations will be enforced.

The director has repeatedly not answered our questions and did not investigate our noise and nuisance complaint. He offers several excuses for the long time taken to process this complaint. He does not indicate why our noise and nuisance complaint was not investigated. In his responses, he often wastes his time by restating information that he supplied to us. We know the information that was provided to us and do not need to be reminded of this data. We do want to know the answers to the pertinent questions that we have to repeatedly ask. Many of our questions have not been answered.

Based on the information supplied to us, the installation of this flagpole will violate sections of the MMC. The permit for this flagpole should be revoked since required code procedures were not adhered to in the issuing of this permit. Because the city has so little information on flagpoles and has inadequate code regulations and permitting processes, we believe that the city should stop issuing new permits for flagpoles and stop work on any permits already issued. The city has no regulation on the size of the flag that can be flown on a flagpole or the minimum required gauge of the tubular walls. Generally the flag height should not exceed 20 percent of the flagpole height. A flag over 4X6 will bring most residential flagpoles to the ground with a 10 to 15mph wind. A residential flagpole will reportedly not stand up against a 30 MPH wind while flying a flag or 40MPH without a flag. Many flagpoles have no warranty. The preceding information is from the internet and we do not know if this is reliable information, but this is more information that the city has. The city should regulate the size of the flag based on the flagpole quality, height, structural integrity and type of materials used in the construction. A structural review for all flagpole permits should be mandatory and is mandatory per the current code. The current code should be enforced.

We believe that the "enforcement" letter issued on 11-4 does not conform to section 4.02.040 which is listed in Evan's 11-15 email. **Exhibit D**. We included a copy of the 11-4 letter. **Exhibit C** This flagpole violates at least 3 MMC's. We are happy that the noise has stopped. The code violations have not been corrected or abated. The lowered flagpole is a flagpole as proven by information in permit B16-0428. The director's contention that the lowered flagpole is not a flagpole cannot be supported. If as we believe, the permit issued for the new location of the flagpole violates the height and structural review requirements, the flagpole cannot be relocated. Lawyers love to contest laws that are not properly executed. This flagpole should have been removed by now or fines should have been levied if the owners are contesting removal. We believe that none of the enforcement actions listed in 4.02.040 (listed in Evan's 11-15 email) **Exhibit D, have** been implemented. Can an employee ignore the codes that were approved by the council?

The email response to our email dated 10-28 is dated 11-4 and copies are included. Included is our email dated 10-11 and the response dated 10-17. **Exhibit C**. Our response to the 10-28 email which is dated 11-4 was prepared and discussed by Evan with the CAO on 11-8 and is included beginning in the next paragraph. The underlined sentences were included in the statement to the CAO, but are not underlined

below. All of the sentences in Mr. Koenig's letter were underlined when Evan finished his review of the 11-4 email.

Letter discussed with the CAO.

First I would like to review Mr. Koenig's response dated 11-4-2016 which is his response to my email dated 10-28-2016. Very few of my questions were answered and I have not received a case number from Mr. Koenig. I underlined the sentences which create confusion, are unclear, contradict previous statements, or indicate a lack of response to my questions in the email dated 10-28-16. I will discuss them with you. Having completed this review, I find this response totally inadequate.

PARAGRAPH ONE

First sentence---An enforcement letter has been sent—Enforcement letter for what? Violating the setback requirement? Violating the requirement to obtain a construction permit prior to construction? Violating the public nuisance codes? If this flagpole violates the setback requirements, how can the owners obtain a permit? What has this department concluded based on the numerous inspections of this site? *On 11-7-2106, my wife talked to Mr. Koenig about her complaint and was asked if she wanted the letter sent. I do not want second hand information. Was the letter sent by 11-4-2016 or not?*

Second sentence—How can the owners obtain a permit after construction, when the plans must be reviewed before construction begins? One would hope that an inspection would be made during construction to ensure compliance with the plans. The location of this flagpole violates the setback requirement. How can a permit be obtained when the presence of this flagpole is a violation of the setback code? If the city is anticipating that the owners are going to move the flagpole to meet the setback requirements, the city and the owners should make sure that the noise generated by these flapping flags does not violate the noise levels that would make this flagpole and flags a nuisance. Noise levels are not a part of my complaint. This statement is just an example of what will occur if this flagpole is allowed and if noise levels are exceeded. According to articles that I read a flapping flag breaks the sound barrier producing unacceptable levels of noise. According to the MMC, permitted noise levels at night are very low, and during the day, any sustained noise levels are low. Are noise nuisance complaints enforced if found to be valid?

Sentences three and four —I did read my email and I am aware of the information conveyed to me on 10-17-2016. I requested the dates of all inspections.—Does this email adequately respond to my request? I do not see the dates of any inspections other than the one on 10-17-2016 (one day after the passage of the anticipated storm). On 10-7-2016 Mr. Koenig verbally indicated to me that he had a picture of this flagpole. I asked in my email dated 10-19-2016 “Was this picture not adequate?” (based on my observance of this flagpole any picture taken prior to 10-7-2016 would show flags flying). I have not received an answer to this question.

This flagpole was reportedly inspected multiple times. What does the inspector inspect? Please explain in detail how each inspection was completed, the date of each inspection and whether the inspector actually approached the flagpole and looked at the type of construction. Even in the lowered position the light is still on the top of the pole and the rotating flag collars are still attached to the flagpole. Does the inspector know that this is a telescoping flagpole? The photograph sent to me on 10-17-2016 shows the light on top of this flagpole.

Sentences five and six—I disagree with Mr. Koenig's conclusion that the lowered flagpole is not a code violation. His conclusion is contradictory to the visible evidence and his earlier statements. I discussed many matters with Mr. Koenig on 9-7-2016 and one was the definition of a flag pole. Although comments in the MMC indicate that flagpole is defined under flagpole, there is no definition in the F

listings. Mr. Koenig stated that a flagpole is defined as an accessory structure and is subject to the setback requirements. Mr. Koenig indicated that a flagpole must be installed outside of the five foot side yard set back. Since the city codes do not describe a flagpole, Mr. Koenig agreed that a typical definition (a pole from which to hang a flag) was the definition that was acceptable to the city. As we discussed anyone would recognize a flagpole. As of October 17, 2016, this definition has apparently been changed, requiring that a flag be displayed on a flagpole in order for it to be considered a flagpole. If the owners were asked if this was a flagpole, I believe that they would affirm that this is a flagpole. Even when lowered, the light and rotating flag collars would indicate the purpose of this flagpole. The picture supplied to me on 10-17-2016 shows the light on top of this flagpole. What other purpose would this pole have? At any of the inspections, did the inspector physically examine this flagpole, not just view it from a distance? I believe that the conclusion that this lowered flagpole is not a flagpole is incorrect. By postponing the examination of this flagpole for over four weeks, this department chose the one week when a winter storm was forecast. Why inspect this flagpole twice during that time, apparently a few days apart, when any reasonable person would have lowered their flags?

Sentence 7—Mr. Koenig did state on 10-7-2016 that he had a picture. Why have I not received a copy of this picture? As mentioned earlier, did this picture show flags flying? I asked for the dates of all inspections. Have I received any date other than 10-17-2016?

Sentence 8—On 10-11-2016, I sent an email to Mr. Koenig and one to Mr. Mcleod. Mr. Koenig replied to my email that was addressed to him and the email addressed to Mr. Mcleod on 10-17-2016. To clarify the email for which I wanted a response to questions that were not answered, I specified the date and time of Mr. Koenig's reply to my email dated 10-11-2016. In Mr. Koenig's response dated 10-17-2016 at 9:06AM, I do not find any answers to any of my questions. Mr. Koenig's conclusion that this pole is not a flagpole contradicts his definition of a flagpole that was stated on 9-7-2016. The questions I ask in this email should be answered, because this is a flagpole on which flags are flown. I am requesting an answer to each and every question that I asked in the email dated 10-11-2016.

Mr. Koenig may be referring to the email sent to Mr. Mcleod and answered by Mr. Koenig. If so, I would like answers to the following questions that were asked in this email:

Answer—Public Nuisance is defined in code MMC 4.02.020. My question was is there a definition of a nuisance at common law in the MMC? If not please provide the definition of this term used by your department. Should I be supplied answers? As a new question, this section implies or states that a private nuisance at common law is a public nuisance. If one does not know what a private nuisance at common law is and the MMC does not define the term, then should one assume that all private nuisances are public nuisances? I believe that this section needs clarification.

Citizen complaints

This section states that any aggrieved person may file a written complaint alleging that a violation of the MMC has occurred. My questions pertain to violations of the code. Code violations would not be consistent with permits that are consistent with the code. Please answer my question, which is about an apparent contradiction. If several individuals file separate complaints are the cases combined? If so, is each individual notified of the progress of the complaint or is the information given to one individual who is expected to inform the other complainants?

PARAGRAPH TWO

A flagpole is an accessory structure. Has this department never had a complaint about an accessory structure? Prior to my meeting with Mr. Koenig on 9-7-2016 I sent an email dated 8-30-2016 suggesting that he review the matters that I wished to discuss. At this meeting, the answers that I received were reportedly the department's positions on many matters including flagpoles. If he had no idea about how

to handle a flagpole complaint, how can his statements to me have any validity? I find the need that this matter be reviewed by the staff somewhat puzzling based on the impression that Mr. Koenig exhibited at our meeting. If his response was going to exceed 3 weeks one might expect an update. I waited over 4 weeks to request an update and certainly some of the minor issues should have been answered by then. For example, researching whether a construction permit was issued would require very little time or effort. Between 9-7-2016 and 10-7-2016 this property was reportedly inspected, possibly several times and at least one picture was taken. What were the results of these inspections and the picture which should have shown a flying flag?

I believe that I have never requested an expedited processing of this complaint. I relied on your estimate. I did point out the unexpected, lengthy delays. As the Director, your estimate should be reasonable and if not I should have been informed. Why would your department inspect this property apparently within 5 working days when you were apparently unable to adequately investigate this property in over 5 weeks? Prior to the recent mailing of the enforcement letter were the owners contacted? Was a door hanger left? Was a close physical inspection of this pole conducted and did your inspector not notice the light and rotating flag collars? The light is visible in the photograph that you sent to me in the 10-17-2016 email.

PARAGRAPH THREE

I do not believe that my complaint mentions any noise issue. I believe that my wife's complaint mentions the noise from these flags. I want our cases to be separate and I do not want responses that should be directed to her sent to me. Please discuss any noise comments with my wife. I believe that if I am asked a question that as a typical act of courtesy that I should reply to the question. I have not discussed this noise issue with my neighbor and I do not believe that in my dealings with Mr. Koenig that I mentioned the noise issue. I do not intend to discuss the noise issue with my neighbor. I know for a fact and based on my and my other neighbors' and friends' experiences that discussing a noise issue is not the quickest way to solve a noise problem. It is nice that you encourage neighbors to work out noise issues, but there are noise nuisance laws. I do not believe that my complaint mentioned a noise issue and I did not mention the noise issue until earlier in this statement. If I did, please advise me of the emails on which these comments appear, and where on my complaint noise issues are mentioned.

As I discussed with Mr. Koenig, I did not want to proceed with a complaint about the violations that are present (not obtaining a construction permit and the violation of the setback requirements) without first consulting with him. Based my conversations with Mr. Koenig and Mr. Koenig's statements on 9-7-2016, I had no doubt that both violations were valid. Although a thorough investigation may not agree with my conclusions, I deserve a reasonable and timely response. I am amazed that such a simple investigation could take this much time and require so much effort and time on my part. I believe that I should have received many more updates with respect to the reasons for the delay and the lack of any substantial progress. I also believe that I should have received thorough and complete responses to my questions. I would appreciate a response by email to each of the issues and questions that are presented in this document.

I believe that the fact that I had to prepare this multipage response to a three paragraph email illustrates serious problems with this department and the director of this department. I would like a response from Gloria Hirashima explaining the basis of her review of this matter and her conclusions regarding the inadequate service, and contradictory and inadequate responses that I have received in this matter.

Thank you,
Evan Kaiser

The responses to both Evan's and Patricia's emails dated 11-15 are dated 11-18. **Exhibit D.** Evan and Patricia sent separate mails on 11-15 and both received separate responses on 11-18. We included a copy of the 11-9 letter. in **Exhibit D** We believe that anyone reading these responses will see that many of our questions were not answered. In addition, Mr. Koenig has repeatedly included statements in his replies that inform us to actions that he has taken and which we are completely aware of. The problems are his failure to act and his inability to answer questions.

On 11-15 we asked that the director review sections of the MMC, the WACs and the RCWs. His response to Patricia's email dated 11-15 is dated 11-18 and clearly indicates that he has misinterpreted or misunderstood these sections.

The last sentence in his email **Exhibit D** to Patricia dated 11-18 states: "If the new flag in the new location is perceived as too loud in you home by you, we can have someone go into your house and take noise measurements."

Listed below are the applicable MMCs and Mr. Koenig's statement is clearly incorrect. Property boundary is clearly defined and noise shall not intrude into the property of another person, not the home. The codes should be enforced as written, not subject to an employee's incorrect interpretation.

MMC 6.76.020 Definitions.

(5) "Property boundary" means the surveyed line at ground surface, which separates the real property owned, rented, or leased by one or more persons, from that owned, rented, or leased by one or more other persons, and its vertical extension.

(6) "Receiving property" means real property within which the maximum permissible noise levels specified herein shall not be exceeded from sources outside such property.

MMC 6.76.040 Maximum permissible environmental noise levels.

No person shall cause or permit noise to intrude into the **property** of another person which noise exceeds the maximum permissible noise level set forth in WAC 173-60-040, which section is hereby adopted by reference. (Ord. 1419 § 4, 1985).

The council has approved these codes. Can Mr. Koenig change these codes and ignore the council's directives?

We believe that the "enforcement" letter issued on 11-4 does not conform to section 4.02.040 which is listed on Evan's 11-15 email. Also listed on the 11-15 email is Item number 5 Inspections of section 4.02.040. Was this section strictly adhered to during this investigation? We believe that the director's conclusion that a telescoping flagpole in the lowered position is not a flagpole is not realistic or supportable. These telescoping flagpoles should be lowered when wind velocities increase. In this lowered position, this flagpole is still a flagpole.

Third Issue

This is simply a question about who can change the MMCs. MMC 16.04.046 Table 1A. A \$50 fee was paid for the building permit that was issued for this flagpole. This code section indicates in table 1A, item 1A the following: Plan review fees (paid at the time of submitting plans) equal to 65% of the building permit fees. The plan review fee should be \$32.50 and none was charged, violating current code. Evan was informed that for all future flagpole permits the total

fee including plan review will be \$50. This policy will violate this code. A plan review is not a structural review. A structural review was required but one was not completed. Can city employees change these code requirements?

Please review our data and inform us of your decision.

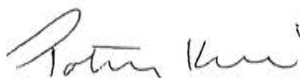
Someone may consider the following to be nit picking. Please correct us if the following is incorrect. Based on our research the word flagpole is a word with a definition. We searched for ways to include flag pole in a sentence and were unable to find any suggestions. We were not able to find a definition for a flag pole. The definition of a flagpole refers to a flagpole not a flag pole. If we are correct the city should be embarrassed if their codes, which will be revised, state flag pole rather than flagpole.

Processing this complaint should have required little time or effort by us. We have spent in excess of 150 hours and used over 400 sheets of paper to date.

Sincerely yours,



Evan Kaiser 11-28-2016



Patricia Kaiser 11-28-2016

From: roumx@comcast.net [<mailto:roumx@comcast.net>]

Sent: Wednesday, December 21, 2016 10:27 AM

To: Janis Lamoureux <jlamoureux@marysvillewa.gov>

Subject: Questions

Planning Department
Marysville, WA
To: Janis Lamoureux

The website states that I should contact you with questions about the planning commission, and I have several questions. Can the head of the planning department or any other member of the planning department or planning commission answer these questions? If so, I would like to have a reasonable estimate as to when I might receive a reply to these questions. During the holiday season, responses may often be delayed. I am requesting a reasonable estimate, not a definite time in which I might receive a replay. This is not a complaint, but a request for information.

These members are appointed by the mayor and city council. Does the city have on file a list of the qualifications, educational background, or any pertinent experience in planning for each member and if so, is this information available on the website or at some city office?

Are any city employees members of this commission?

Are any city employees required to attend these meeting and if so, please list the employees' names and their departments? As an alternative, if this information is available on the website or in the MMC, you may just supply me with this information.

One of the duties of this commission is to review all proposed amendments to the city zoning code, subdivision code and shoreline management code. Title 22 of the MMC is the UDC. Does the planning commission or the planning department make, review and submit to the city council all of the codes in the UDC?

Mrs. Hirashima has informed me that the planning commission will be addressing the current codes for flagpoles and possibly other codes in the UDC. I would like to know, when available, the meeting dates at which any of these code changes, or additions, will be discussed.

Mr. Koenig and Ms. Hirashima are aware that there are several codes that need clarification. I have found the wording in many of the codes in the UDC to be contradictory and, or confusing. Listed below are two codes that I believe are contradictory. These codes were apparently prepared by and reviewed by some employee, the planning commission and the city council. I believe that I know how such a confusing statement was inserted into the codes. Anyone can make a mistake. I believe that this problem is not a mistake, but the result of the procedures used to make changes to the MMC. Do you believe that these statements are contradictory or

confusing? Should these codes be clarified? What measures do you believe should be instituted to insure that such problems are eliminated or reduced in the future?

22A.020.200 “S” definitions.

“Sign” means any device, fixture, or placard that is visible from a public right-of-way or surrounding properties and uses graphics, symbols, logos, or written copy conveying a message or image and used to inform or attract the attention of the public, such as advertising or identifying an establishment, product, goods, service or activity. A sign may have multiple faces and advertise multiple on-premises establishments, businesses, products, services, or activities. **This definition does not include any flag of any country, state or local jurisdiction.** Unless the context clearly provides to the contrary, a “sign” as used in this chapter also includes the “sign structure.”

(Ord. 2955, 2014; Ord. 2870 § 5, 2011; Ord. 2852 § 10 (Exh. A), 2011).

22C.160.080 Exemptions.

The following signs are exempted from obtaining a sign permit, but must comply with all other requirements of this chapter and with the specific requirements set forth below for each type of sign:

(11) The flag, emblem or insignia of a nation or other governmental unit or nonprofit organization,

subject to the guidelines concerning their use set forth by the government or organization which they represent.

Flag poles require a construction permit for structural review. (Ord. 2852 § 10 (Exh. A), 2011).

If a flag is not a sign, why does item 11 exempt these signs (flags) from obtaining a sign permit? Would the 12th man flag be a sign? The 12th man flag is not a **flag of any country, state or local jurisdiction** but is a **flag, emblem or insignia of a nonprofit organization.**

You may think this is petty, but the word is flagpole, not flag pole.

Thank you,

Evan Kaiser

From: David Koenig
Sent: Thursday, December 22, 2016 12:54 PM
To: 'roumx@comcast.net' <roumx@comcast.net>
Subject: Response to email to Janis Lamoureux

Mr. Kaiser

This is the response to your email to Janis Lamoureux received on Wednesday December 21, 2016.

Information about the Planning Commission from the Marysville Municipal Code is below. This includes information on the City Council review of Planning Commission actions. Planning Commission is an advisory committee to the City Council and all the Marysville Municipal Code is approved by the City Council.

There are no city employees serving on the Planning Commission. Planning staff in the Community Development Department provide staff support for the Planning Commission and provide them staff reports and respond to information requests to help them make a recommendation to the City Council. Staff attend as needed. An example is the City Engineer attends when there are transportation and utility infrastructure topics to support Planning Staff. The minutes of the Planning Commission has a record of the staff who are in attendance at each Planning Commission meeting. These minutes can be found at the link below.

The next Planning Commission meeting will be January 10 in the City Council Chambers and they will be starting their review of the flagpole code related topics that evening. Additional meetings would be scheduled in the future. All meetings are open to the public and the public is encouraged to attend. The Planning Commission meets on the 2nd and 4th Tuesday of the month, as needed. Additional information about the Planning Commission may be found at:

<http://www.marysvillewa.gov/259/Planning-Commission>

Thank you for providing your thoughts on the code. Your email correspondence of Wednesday December 21, 2016, will be provided to the Planning Commission. Your questions and thoughts about the code expressed in your email will be provided to the Planning Commission for their consideration.

Chapter 22G.050
PLANNING COMMISSION

Sections:

22G.050.010 Planning commission created.

22G.050.020 Appointment of members – Term of office.

22G.050.030 Expenses.

22G.050.040 Meetings – Officers – Rules.

22G.050.050 Quorum – Voting.

22G.050.060 Conflicts of interest.

22G.050.070 General powers and duties.

22G.050.010 Planning commission created.

Pursuant to RCW 35A.63.020, there is hereby created a city planning commission, which shall serve in an advisory capacity to the mayor and city council, and shall have such other powers and duties as may be provided herein or delegated to it by the mayor and city council. (Ord. 2852 § 10 (Exh. A), 2011).

22G.050.020 Appointment of members – Term of office.

The planning commission shall consist of seven members who shall be appointed by the mayor subject to confirmation by the city council. Members shall be appointed without regard to their political affiliation, and shall serve without compensation except as hereinafter provided. At least a majority of all commission members, at any time, shall be residents of the city. All members of the planning commission shall reside within the city's urban growth area. The term of office of each member shall be six years; said terms shall be staggered so that no more than two positions become vacant in any year. A commissioner may be removed from office by the mayor for inefficiency, negligence of duty or misconduct in office. (Ord. 2852 § 10 (Exh. A), 2011).

22G.050.030 Expenses.

The planning commission, as a body, or individual members thereof, may be reimbursed for actual and reasonable expenses in the performance of their duties in behalf of the commission. Such expenses may include, but are not limited to, such items as: travel and subsistence, registration fees and other costs incidental to meetings and conferences, professional and consulting services, educational fees, dues and assessments of professional planning organizations, subscriptions to periodicals and purchases of informational and educational texts, and similar expenditures that may be deemed necessary to increase the efficiency and professional ability of the members of the commission. Planning commission expenses shall be subject to authorization and approval by the city council. (Ord. 2852 § 10 (Exh. A), 2011).

22G.050.040 Meetings – Officers – Rules.

The planning commission shall annually elect a chairman from among its members. The commission shall hold at least one regular meeting in each month for not less than nine months each year. Regular meetings shall be open to the public, and shall be scheduled for a regular time and place. Notice of time, place and purpose of any special meeting shall be given as provided by law. The commission may adopt rules for transaction of business, and shall keep a written record of its public meetings, transactions, findings and determinations, which record shall be a public record. (Ord. 2852 § 10 (Exh. A), 2011).

22G.050.050 Quorum – Voting.

A majority of the duly appointed and acting members of the planning commission shall constitute a quorum for the transaction of business. With a quorum being present, the commission may take action on any business upon an affirmative vote of a majority of those commissioners present. The chairman shall be entitled to a vote on all business. (Ord. 2852 § 10 (Exh. A), 2011).

22G.050.060 Conflicts of interest.

Any member of the planning commission with a conflict of interest, or an appearance of fairness problem, as defined by Chapter 42.36 RCW, with respect to any matter pending before the commission, shall disqualify himself from participating in the deliberations and the decision-making process with respect to the matter. If this occurs, the mayor, subject to confirmation by the city council, may appoint another person to serve as a commissioner pro tem in regard to that matter. (Ord. 2852 § 10 (Exh. A), 2011).

22G.050.070 General powers and duties.

The planning commission shall have the following powers and shall perform the following duties:

- (1) Prepare a comprehensive plan for anticipating and influencing the orderly and coordinated development of land and building uses of the city and its environs; hold public hearings on said plan, and any amendments thereto, and make recommendations to the city council;
- (2) Divide the city into appropriate zones within which specific standards, requirements and conditions may be provided for regulating the use of public and private land, buildings and structures, and the location, height, bulk, number of stories and size of buildings and structures, size of yards, courts, open spaces, densities of population, ratio of land area to the area of buildings and structures, setbacks, area required for off-street parking, protection of access to direct sunlight for solar energy systems, and such other standards, requirements, regulations and procedures as are appropriately related thereto; hold public hearings on the adoption of zoning ordinances and maps, and amendments thereto, and make recommendations to the city council;
- (3) Prepare a shoreline management master program for the shorelines of the city, and a shoreline environment designation map, as required by state law and city ordinance; hold public hearings on the same, and any amendments thereto, and make recommendations to the city council;
- (4) Review all proposed amendments to the city zoning code, subdivision code and shoreline management code; hold public hearings thereon, and make recommendations to the city council;
- (5) Conduct, on its own initiative or upon request by the mayor or city council, investigations into matters relating to the physical, economic and environmental development of the city, and public works and civic improvements, and submit reports and recommendations to the mayor and city council with respect to the same;

(6) Perform such other duties or responsibilities as may be specifically delegated by the mayor or city council. (Ord. 2852 § 10 (Exh. A), 2011).

22G.020.040 Planning commission review.

All proposals falling within the scope of the chapter will be introduced to the Marysville planning commission, which may schedule workshops as needed to consider the proposal. City staff may prepare a report and recommendations to the planning commission. Prior to making a recommendation to the city council, the planning commission shall schedule a public hearing pursuant to the procedures set forth in MMC 22G.020.060. After the public hearing and any further study sessions as may be needed, the planning commission shall transmit its recommendation to the city council through the community development department. (Ord. 2852 § 10 (Exh. A), 2011).

22G.020.050 City council review.

Following the review by the planning commission, the city council shall consider at a public meeting each recommendation transmitted by the planning commission. The city council may hold its own public hearing pursuant to the procedures set forth in MMC 22G.020.060.

Following such public meeting and/or public hearing, the city council may take any one of the following actions:

(1) Adopt the recommendation of the planning commission without changes.

(2) Adopt the recommendation of the planning commission with changes.

(3) Remand the recommendation or parts thereof to the planning commission for further review. In the event the city council remands a matter for further planning commission review, the council shall specify the time within which the planning commission shall report back to the city council with a new recommendation. All entities involved shall comply with the timelines unless the city council approves a request for extension of time.

(4) Any action by the city council shall be adopted pursuant to ordinance or resolution; provided, however, in the event the city council denies or disapproves any recommendation it may be done by motion. (Ord. 2852 § 10 (Exh. A), 2011).

Dave Koenig | Community Development Director

CITY OF MARYSVILLE

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dkoenig@marysvillewa.gov
<http://marysvillewa.gov>

From: roumx@comcast.net [<mailto:roumx@comcast.net>]
Sent: Tuesday, January 17, 2017 8:16 AM
To: Janis Lamoureux <jlamoureux@marysvillewa.gov>
Subject: Please forward this to the planning commission members

City of Marysville
Planning Commission

I am including some information that you might find is relevant to the flag and flagpole code revisions that you will be considering.

I was informed that I could not address the items on the agenda for 1-10-2017 since this was a work session. When I spoke during the meeting, I attempted to convey to you the following: Many documents from me and my wife were sent to you. Some of them have information that is not relevant to the code revision matters. Source documents were not included for some of these documents. The exclusion of these documents would make comprehension of many of our statements difficult. For example, consider the letter to Ms. Hirashima dated 11-8-2016. Without the emails submitted to Ms. Hirashima, how can one know what I am referring to when I reply to Mr. Koenig's email? That was the point that I wanted to suggest to you. The source documents should have been included to provide you with a clear and complete picture.

There are very few codes regarding flags and flagpoles and many of the existing codes are self contradictory and confusing. Ms. Gemmer now has MMC 22C.160.070 Prohibitions and this code appears to ban all flags from the city. Review of this section will be completed by the planning department.

The planning department and possibly the planning commission might want to reference: The United States Flag: Federal Law Relating to Display and Associated Questions Updated 1-24-2011. This is on the internet. Also, RCW 64.38.033, RCW 9.86.010, 9.86.020, and 9.86.030 and other related material. .

If the planning members would access the internet they would find many informative articles about flags and flagpoles. Many of the hazards created by flying flags that are too large, poorly manufactured flagpoles and the improper installation of flagpoles are described. The flagpoles that created the need to revise these codes were EZPOLE flagpoles and this website (ezpole.com) does suggest the manufacturer's suggested height limits based on the type of home and lot size. The suggested heights are 13, 17, and 21 feet. 21 feet exceeds the current code limit of 20 feet. Should reasonable height limits be considered based on the actual locations of flagpoles? For example a small, irregularly shaped front yard of about 300 square feet on a 7,000 square foot lot versus a large rectangular shaped front yard of 1,000 square feet on a 7,000 square foot lot. Should there be different limits for one acre and larger sites and large estates?

Flags

Example Definition---A **flag** is a piece of fabric (most often rectangular, triangular or quadrilateral) with a distinctive design that is used as a [symbol](#), as a signaling device, or as decoration. Should the definition be specific and determined by planning commission?

Three of the many factors to consider are the size of flags, the types of flags and flagpoles.

Size of flags.

Without limits someone can display a 20 x 40 foot wide flag. Is such a flag size reasonable for a single family home located on a lot of less than one acre? What about on a 20 acre site? Should the city establish the size of the flags that can be flown or just rely on the manufacturer/s recommendations or any individual's decision?

Types of flags

1. Types of flags that are allowed. Can the city impose any restrictions? Contact city attorney? Limit to Flags of any nation, state, or local jurisdiction? Can the following be restricted or allowed: nautical flags, custom made flags promoting or criticizing anything like gun ownership and any other causes, the KKK, historical flags? Etc.

Should the Code allow only those that you want to allow and which can be legally restricted?

Current code 22A. 020.200 Presently, clearly states that any flag of any county, state or local jurisdictions is not a sign. Therefore, they can be flown. Should this definition be eliminated?

Non profit organizations—should these be flags or signs? Some types of non profits: Endangered Species International, Project Homeless, Shanti Project, Global Washington, 501 Commons, 12th man flag and any other sports team's flags or banners.

Should citizens be exposed to 24 hour displays of these types of flags?

Flagpoles

1. Should flagpoles be allowed on single family residential lots?

2. Definition of flagpoles

22A.020.070

Definition is a complex problem due to many sizes, types and designs. #1 and #2 What is tall? 3', 6', 40 feet?

#3 Is this the best definition? Would include the small types of flagpoles that can be attached to a house or a fence or a structure. Any codes would then apply to these small flagpoles. Should the Code differentiate between these types of flagpoles and possibly limit size and placement of both types of flagpoles?

Should flagpole construction be limited by the type of material used in the construction?

Could one build a 30 foot flagpole out of wood under the current or revised code?

Should flagpoles require a building permit and a structural review by a structural engineer? China has produced many inferior products such as sheetrock and laminated flooring that were installed and that had to be removed from homes. Should any manufacturer/s instructions for the installation of flagpoles in concrete foundations be reviewed by a structural engineer?

Should the new code limit the number of flagpoles that can be installed on a lot?

Someone might want 2, 3, or 10 flagpoles to display many flags.

Height Limit of flagpoles.

22c.010.220 This code refers to 22c.010.080 and the only height limit that I find in this code is the base height of 30 feet. This code does reference codes 22c.010.100 through 250.

22C.180.020 limits the height of a flagpole to 20 feet for lots less than one acre. Are there current height limits for flagpoles on sites over one acre? The planning department comments appear to indicate that flagpoles will remain classified as accessory structures. Will they remain as accessory structures?

The new code .220 would increase the flagpole height to at least 40 feet and five feet above the highest point of the roof (roof of what?). This 40 foot limit would conflict with the accessory structure limit of 20 feet. Would this new code allow flagpoles of any width depth or diameter? Different height limits are placed on flagpoles of less the five feet in diameter, and those with a diameter greater than five feet. Picture a 40 high flagpole or any structure that is five or more feet in diameter on a very small, irregularly shaped front yard. .

22c.010.210

3. This code would conflict with the current set back requirements for flagpoles. The current set back requirements have some problems. For example code .210 would limit flags from flying over adjacent properties, which is good since the present code does not place such a limit. Because of varying wind directions it would be almost impossible to place a flagpole on the property line and not have the flag flying over the adjacent property. Is allowing any of the items mentioned in section 3 to project to the property line advisable? A 30 foot high antenna and all of the other items could be placed right at the property boundary. Shouldn't these items be kept out of the required set back areas? Should consideration be given to removing all of item 3, including the current sentence allowing these encroachments to the property line?

When considering the height of poles, lights, antennas, flagpoles and other items that are 20 feet or more in height should the fall distance be considered? For example someone wants to install a 25 foot flagpole or similar item five feet from the side yard property line. If this flagpole were to collapse onto the adjacent property, damage to an individual or structures on the adjacent property might result. If this flagpole must be located on the subject site at least 25 feet from any adjacent property boundary, only the owner installing this flagpole might be damaged.

22c.160.080.

The first sentence clearly states that this section pertains to signs. Therefore, Item 11 now classifies certain flags as signs. The former definition of signs specifically stated that certain flags are not signs. The revised definition of signs eliminates this exclusion. Number 11 and the definition of signs need correction and clarification. Number 11 clearly states that flags emblems or insignia of non profit organizations are signs. This is good if the planning commission wants to prohibit the flags of all of the non profit organizations. Allowing the display of one non profit organization might be difficult to do, if others are excluded. Should the city attorney be contacted to clarify this question?

This revised section allows flagpoles to be constructed without obtaining a building permit. Does the commission agree with this section? This section removes the requirement that flagpoles obtain a construction permit for structural review? Does the commission agree with this section? Should the definition of a structural review be clarified? For example, a structural review is a review of the plans by a licensed engineer? By removing these requirements, is the public safety put at risk?

While reviewing the codes I read section 22c.010.250 Nonresidential land uses in residential zones.

The title refers to nonresidential land uses. Item 4 refers to a dwelling unit which is a residential land use. Should item 4 be included in this section? Is there a more applicable code in which item 4 should be placed?

(4) A single detached dwelling unit allowed as accessory to a church or school shall conform to the setback requirements of the zone.

Sincerely yours

Evan Kaiser



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

MEMORANDUM

DATE: January 20, 2017
TO: Planning Commission
FROM: Angela Gemmer, Senior Planner
RE: 2016-17 Code Amendments: STAFF RECOMMENDATION – Flags and Flagpoles
CC: Dave Koenig, Community Development Director
Chris Holland, Planning Manager
Cheryl Dungan, Senior Planner
Amy Hess, Associate Planner

At the January 10, 2017 Planning Commission workshop, proposed amendments pertaining to the treatment of flags and flagpoles were presented. At that workshop, the Planning Commission expressed concerns regarding both the height of flagpoles and the proposed setback requirements. In response to these concerns, revisions to the flagpole regulations were drafted which are set forth below.

When amending flagpole regulations, consideration should be given to the typical placement of single family residences on lots so that regulations do not unduly prevent a property owner from installing a flagpole. For example, since most residences are subject to setbacks of 20' from front and rear lot lines, and 5' from side lot lines, requiring a 20' setback for a flagpole could restrict display of the flagpole to the rear yard if the structure is built at the 20' setback line which is typical for many newer homes.

Additionally, consideration should be given for existing flagpoles, which have remained unregulated within the City of Marysville. In a recent visit through a neighborhood, staff photographed seven (7) existing flagpoles within a quarter mile radius that would be non-conforming if provisions for flagpoles are too restrictive (see attached).

Amendment 7

STAFF RECOMMENDED CODE AMENDMENT:

DEFINITIONS

22A.020.070 "F" definitions.

"Flagpole" a tall pole from which a flag hangs.

22A.020.200 "S" definitions.

"Sign" means any device, fixture, or placard that is visible from a public right-of-way or surrounding properties and uses graphics, symbols, logos, or written copy conveying a message or image and used to inform or attract the attention of the public,

such as advertising or identifying an establishment, product, goods, service or activity. A sign may have multiple faces and advertise multiple on-premises establishments, businesses, products, services, or activities. This definition does not include any flag of any country, state or local jurisdiction. Unless the context clearly provides to the contrary, a "sign" as used in this chapter also includes the "sign structure."

RESIDENTIAL ZONES – HEIGHT

22C.010.220 Height – Exceptions to limits.

The following structures may be erected above the height limits of MMC [22C.010.080](#):

- (1) Roof structures housing or screening elevators, stairways, tanks, ventilating fans or similar equipment required for building operation and maintenance; and
- (2) Fire or parapet walls, skylights, chimneys, smokestacks, church steeples, and utility line towers and poles.
- (3) Flagpoles may rise ten feet above the height limit, or five feet above the highest point of the roof, whichever is greater.

RESIDENTIAL ZONES – SETBACKS

22C.010.210 Setbacks – Projections allowed.

Projections may extend into required setbacks as follows:

- (1) Fireplace structures including eaves and factory-built garden or bay windows may project into any setback, provided such projections are:
 - (a) Limited to two per facade;
 - (b) Not wider than 10 feet; and
 - (c) Not more than 24 inches into a side setback or 30 inches into a front or rear setback;
- (2) Uncovered porches and decks, including stairs, which exceed 30 inches above the finished grade may project:
 - (a) Eighteen inches into side setbacks; and
 - (b) Five feet into the front or rear setback;
- (3) Uncovered porches and decks not exceeding 30 inches above the finished grade, and uncovered accessory structures such as radio antennas and dishes, mechanical equipment, play structures, and tennis courts, may project to the property line, provided that, with the exception of uncovered porches and decks, the front property line setback for the zone shall be observed;
- (4) Eaves may not project more than:
 - (a) Twenty-four inches into a side setback;
 - (b) Thirty-four inches into a front or rear setback; or
 - (c) Eighteen inches across a lot line in a zero lot line development.
- (5) Accessory structures such as flagpoles and lampposts shall be setback a minimum of five feet from all property lines, provided
 - (a) They are not located within a utility or access easement, and;
 - (b) Flags are not displayed in a manner that would cause the flag to encroach onto a neighboring property.

COMMERCIAL ZONES

22C.020.190 Height – Exceptions to limits.

The following structures may be erected above the height limits of MMC [22C.020.080](#)(2):

- (1) Roof structures housing or screening elevators, stairways, tanks, ventilating fans or similar equipment required for building operation and maintenance; and
- (2) Fire or parapet walls, skylights, chimneys, smokestacks, church steeples, flagpoles and utility line towers and poles.

SIGN CODE

22C.160.080 Exemptions.

The following signs are exempted from obtaining a sign permit, but must comply with all other requirements of this chapter and with the specific requirements set forth below for each type of sign:

- (1) A change in the face of the sign or advertising copy of an existing, legally permitted, sign.
- (2) Temporary and special event signs meeting the requirements of MMC [22C.160.230](#).
- (3) On-premises and portable commercial or real estate signs meeting the requirements of MMC [22C.160.230](#)(5) and (6).
- (4) Political signs meeting the requirements of MMC [22C.160.230](#)(7).
- (5) Nonelectric signs not exceeding four square feet per face, which are limited in content to the name of occupant and address of the premises in a residential zone.
- (6) Instructional signs, not exceeding six square feet per sign; provided, that foundation, anchorage, attachments and other structural support of the sign and electrical connection require construction permits.
- (7) Menu signs. Foundation, anchorage, attachments and other structural support of the sign and electrical connection require construction permits.
- (8) Seasonal decorations. Reasonable seasonal decorations within an appropriate holiday season or during a festival are exempt from this section as long as such displays are removed promptly at the end of the holiday season or festival.
- (9) Sculptures, fountains, benches, lighting, mosaics, murals, landscaping and other street furniture and design features, which do not incorporate advertising or identification.
- (10) Signs not visible from public way. Exterior and interior signs or displays not intended to be visible from streets or public ways, signs in the interior of a building more than three feet from the closest window and not facing a window, window displays and point of purchase advertising displays such as vending machines.
- ~~(11) The flag, emblem or insignia of a nation or other governmental unit or nonprofit organization, subject to the guidelines concerning their use set forth by the government or organization which they represent. Flag poles require a construction permit for structural review.~~
- ~~(112)~~ Traffic or other municipal signs, signs required by law or emergency services, railroad crossing signs, legal notices, and any temporary signs specifically authorized by the city council or authorized under policies and procedures adopted by the city council.
- ~~(1213)~~ Signs of public utility companies indicating danger or which serve as an aid to public safety or which show the location of underground facilities or of public telephones.
- ~~(1314)~~ Memorial signs or tablets, names of buildings, stained glass windows and dates of erection when cut into the surface of the facade of the building or when projecting not more than two inches.
- ~~(1415)~~ Incidental signs, including, but not limited to, "no trespassing," "no dumping," "no parking," "private," signs identifying essential public needs (i.e., restrooms, entrance, exit, telephone, etc.) and other information warning signs, which shall not exceed three square feet in surface area.

(~~1516~~) Flush-mounted wall signs which are used to identify the name and address of the occupant for each dwelling, provided the sign does not exceed two square feet in sign area.

(~~1617~~) Gateway entrance signs. Gateway entrance signs that comply with the city of Marysville gateway master plan. Foundation, anchorage, attachments and other structure support of the sign and electrical connection require construction permits.

Community Development staff requests the Planning Commission review the revised STAFF RECOMMENDED amendments related to flags and flagpoles, and provide direction on finalizing the proposed amendments.









From: roumx@comcast.net [<mailto:roumx@comcast.net>]
Sent: Wednesday, January 11, 2017 8:34 AM
To: Jon Nehring <jnehring@marysvillewa.gov>
Subject: Many

City of Marysville, WA
Office of the Mayor

From: Evan and Patricia Kaiser
Please respond by email

Dear Mayor Nehring,

After reviewing this data, could you please give us a reasonable estimate of when we might expect a completed reply? We would appreciate a response to our questions about the three codes mentioned in the first three pages of this email as soon as possible and this answer can be provided without a response to the remaining questions.

We are addressing this email to you because you are a full time city employee who presides over the council meetings. We believe that this message addresses at least two of your stated priorities which are as follows:

Maintaining public safety as a top priority and ensuring that integrated and innovative approaches to policing are responsive to community needs and built around a partnership of trust between citizens and police personnel.

Maintaining customer service, transparency and accountability in city government, and prioritizing constituent issues with prompt response

The city now knows that code revisions are necessary and that there were a limited number of codes pertaining to the construction of flagpoles and the display of flags. Revision of some codes will occur and the implementation of more should result from the review process. Many safety issues were not addressed by the current codes. These actions were taken as a result of the complaints that we filed and the questions that we asked. There are several more problems present in the various city departments, and the MMC, which we will address in the future.

The mention of individual names and actions in this statement is not a personal attack on these people. We do question some of the city employees' decisions, actions and refusal to act. We present these matters to notify you of these matters, for you and the council members to review and for all of you to decide if constructive measures are warranted

The city has many competent, helpful, knowledgeable and efficient employees. Over the years we have met several and recently, many more. As with any organizations there are employees who do not always meet these standards.

This is not a complaint, but a request for information and a statement to you and the council. We know that you, personally cannot answer all of these questions, but we believe that we deserve answers to these questions. Our questions and this statement do reveal a lack of attention to detail by several employees and does request the facts on which certain decisions were based. This is a long statement that covers many items and includes comments regarding a three month process that according to Mr. Koenig should have been resolved in 2 to 3 weeks. We agree with Mr. Koenig's estimated time of completion, which was not achieved.

As with all organizations the city is a functioning entity and better, more efficient policies can be instituted. We do have some suggestions that if adopted will result in clarification and possibly revision of existing city policies which should reduce city expenses. We will be presenting these suggestions to the council in the future. We are interested in improving city government and contributing constructive changes to provide a better, overall living environment in Marysville.

We believe that our statements indicate that there are some serious problems that exist in the Community Development Department and that the council should be made aware of these problems. The council cannot be aware of every interaction between the public and city departments and every process or policy of every city department. We believe that based on the information that is included in this statement and information that will be provided to you soon, that at some time in the near future someone outside of this department should review some of the procedures and actions of some of the management and employees in this department. Many of the reasons for the statement made in the previous sentence are presented here and in our previous emails to various city employees.

We do refer to Mr. Koenig and our comments about him are based solely on our experiences with his job performance. This is not a complaint. We believe that the council should be made aware of some of the decisions, interpretations and lack of responses that occurred during the investigation of our complaints. Mr. Koenig has many discretionary powers that, when exercised, may have a significant impact on the city. He should be able to justify his statements and decisions and his written responses to questions should be complete, accurate, and comprehensible. We mentioned most of our disagreements with his conclusions, analysis, statements and logic in previous statements, but several more and different ones are listed in this statement.

Confusing and contradictory codes.

Currently, our main concern is the 21 foot high flagpole at 2914 73rd Ave. NE that was relocated from the previous illegal location to a nearby location. Mr. Koenig approved this height even though the code restricts flagpoles to 20 feet. We do have some questions about this approval, which are included later in this statement. The new location of this flagpole will not reduce the noise generated by this flag and the illegal sign that are displayed. We have no desire to restrict the legal display of our nation's flag, or the 12th man flag (a sign). We did and will object to any excessive noise levels

created by the display of the flag and the 12th man sign. The U.S. flag and 12th man banner or flag are displayed 24 hours a day. The following codes clearly define the 12th man flag as a sign and contain contradictory statements about the status of the U.S. flag as a sign. These types of signs are prohibited in residential neighborhoods. We are not attorneys but believe that our statements in the last two sentences are correct based on the existing codes. These are the current codes and we would like responses to our questions based on these codes. We previously requested responses to these questions and have received no clarification of these codes.

22C.160.070 Prohibitions.

The following signs are prohibited in the city and are subject to the specific prohibitions, requirements, and exceptions set forth below for each type of sign:

(9) Streamers, pennants, and banners. Displays of **banners**, festoons, **flags**, posters, pennants, ribbons, streamers, strings of lights, chasing strobe or scintillating lights, flares, balloons, bubble machines and similar devices are prohibited when the same are visible from any off-site location, including but not limited to any public right-of-way, except as provided in MMC [22C.160.230](#). Where such signs or devices are not visible from off site, this prohibition does not apply. *This code apparently prohibits all flags. If so, why are flags flying on any flagpole?*

22A.020.200 “S” definitions.

“Sign” means any device, fixture, or placard that is visible from a public right-of-way or surrounding properties and uses graphics, symbols, logos, or written copy conveying a message or image and used to inform or attract the attention of the public, such as advertising or identifying an establishment, product, goods, service or activity. A sign may have multiple faces and advertise multiple on-premises establishments, businesses, products, services, or activities. **This definition does not include any flag of any country, state or local jurisdiction. Unless the context clearly provides to the contrary, a “sign” as used in this chapter also includes the “sign structure.”** (Ord. 2955, 2014; Ord. 2870 § 5, 2011; Ord. 2852 § 10 (Exh. A), 2011).

22C.160.080 Exemptions.

The following signs are exempted from obtaining a sign permit, but must comply with all other requirements of this chapter and with the specific requirements set forth below for each type of sign:

(11) The flag, emblem or insignia of a nation or other governmental unit or nonprofit organization, subject to the guidelines concerning their use set forth by the government or organization which they represent. Flag poles require a construction permit for structural review. (Ord. 2852 § 10 (Exh. A), 2011).

If a flag, emblem or insignia of a nation or other governmental unit or nonprofit organization is not a sign, why does item 11 exempt these signs (flags) from obtaining a sign permit? The 12th man flag is not a **flag of any country, state or local jurisdiction** but is a **flag, emblem or insignia of a nonprofit organization**. Based on these codes definition, the 12th man flag is a sign. If the 12th man flag is a sign, the flagpole is a sign structure and a sign structure is prohibited in a residential neighborhood. Quoting 22A.020.200: “Unless the context clearly provides to the contrary, a “sign” as used in

this chapter also **includes the “sign structure.”** Displaying the 12th man flag would require removal of the flagpole (the sign structure). Are these codes clear? If so, is a U. S. Flag a sign? Is the 12th man flag a sign? These codes may be revised soon, but until revised these are the current codes. These questionable definitions would have had no effect on the processing of our previous complaints. The codes that were violated in our previous complaints are very clear.

We believe that the 12th man flag/banner is a sign per the above codes. Mr. Koenig was supplied several pictures showing this 12th man sign. Why did Mr. Koenig not inform the homeowner that such a display is not permitted by the code? We requested clarification of these codes several times and have received no clarification of the city’s interpretation of these codes.

If the city wants to allow 12th man flags, extensive consideration should be given to the other types of non profit organizations that could request the same treatment. Does the city want flags of various non profit organizations displayed on 21 foot high flagpoles in residential areas? Since Mr. Koenig just approved two new installations with this height, how can any other applicant be denied the same consideration?

These codes were written by someone in the city, reviewed by the city attorney and read and approved by the city council. We understand that the council relies on the staff and we believe that the reading and approval of ordinances by the council is based on the recommendations of the staff and not a complete and thorough review of each item by the council. The confusion in these codes is apparently due to a lack of a complete review by the author of these codes, the city attorney and the council. We believe that the council should want to know why these apparently contradictory codes were submitted for the council’s approval. We believe that there is a simple explanation for this problem and that explanation is inattention to detail. When revising a code the individuals responsible for creating and approving the codes should at the least review the definitions that are in each chapter.

We have noticed several other codes that exhibit the same problems mentioned earlier and we believe that there are many more codes that are unclear, contradictory or confusing. Ms. Hirashima indicated that certain codes will be addressed at the planning department hearings, so some codes will be revised and or corrected. The problem of poorly worded codes appears to be significantly greater than those that address flags and flagpoles. We would like to know if you believe that the council should be made aware of this problem and institute a more reliable system to eliminate these types of errors in the future? Should the council review the system that presents ambiguous and contradictory codes for their approval? Please email us a list of the codes that Ms. Hirashima has asked the planning department or any other department to review. If you wish, we will, in the future, provide more examples of these types of codes (that are not on Ms. Hirashima’s list) for you and the council to review. .

After we contacted Ms. Hirashima, Mr. Koenig’s responses to our emails were more prompt and of slightly better quality. Many of our previous questions would not have

been necessary if Mr. Koenig had effectively processed our complaints in the 2 to 3 week time period that he indicated would be applicable. We will explain this sentence later in this statement and in another email to you that includes a time line that is similar to Ms. Hirashima's time line. .

Clarification of parts of our 11-28-2016 statement and questions.

In our statement to the council on 11-28-2016 we stated that we are detailed oriented people. By this statement, we mean that if we submit three questions to a city employee or official, we expect answers to three questions. We expect to receive responses that are complete, factual, supportable, accurate and comprehensible. We should not be required to submit numerous requests for the same information. The fact that we are detailed oriented does not mean that we do not make mistakes.

Ms. Hirashima assured us that the city does investigate and enforce violations of the MMC. Following are some questions to which we would like responses:

We have repeatedly asked for the dates that the code inspectors visited 2914 73rd Ave NE. We would like to know why the city cannot answer this simple question. Does the city not have records of these visits?

Are Mr. Koenig's statements that the lack of a flag or a change in the flagpole height somehow changes the status of the flagpole to something other than a flagpole supportable, reasonable or accurate? If these statements can be supported, please supply the logical facts that would verify his statements. On 9-7-2016, he stated that a flagpole is easily recognizable, but since then he has experienced difficulty in identifying this flagpole and the valid code violations that existed. The fact that a building permit was recently issued to relocate the flagpole would certainly contradict Mr. Koenig's statements. Mr. Koenig has many discretionary powers and should be able to justify his statements and decisions.

We would like to know why Patricia Kaiser's noise nuisance complaint was not investigated and have repeatedly requested this information. The main reason that Evan filed his original complaint was because of the noise generated by these flags, and the fact that we did not learn of the noise nuisance codes until later. The flags were still in place when her complaint was filed. The city visited the site and took a picture of the flying flags. If the city had investigated this matter then, the city would have reliable data regarding the noise levels produced by the flags displayed on a 21 foot high flagpole. Such data might have affected the issuance of the future flagpole building permits that were issued to 2914 73rd Ave. NE and 2909 73rd Ave. NE. Knowing that flags flown at 21 feet produce excessive noise the city might have been given more consideration to limiting the height of flagpoles to a height similar to the flagpole manufacturer's suggested height of 13 feet. Not investigating this noise complaint in a timely fashion has only delayed the investigation. Due to the adjacent, small, irregularly shaped front yard, we advised the city and the homeowner that relocating this flagpole to the new location would not reduce or eliminate the noise nuisance caused by the two flags that are consistently flown from this flagpole. This new location is less than 20 feet

from our property boundary and possible 20 or so feet from the previous location. Noise from the previous location was noticeable more than 50 feet away, and inside our home.

Because the noise generated by the flag and sign at 2914 73rd Ave. NE will most likely become a future issue, we would like to know the basis and the procedure that will be followed for this investigation. In an email dated 11-18-2016 Mr. Koenig stated "When the flag pole is relocated with the new lighter flag this should address your concerns. If the new flag in the new location is perceived as too loud in your home by you, we can have **someone go into your house** and take noise measurements."

What facts indicate to Mr. Koenig that this new flagpole location should address our concerns? Is this statement and conclusion based on facts, accurate and supportable? What facts did he consider? Are both the flag and the sign being replaced with newer lighter flags? Is the 12th man flag a sign? We informed the city and the homeowner that any new location in this small, irregularly shaped front yard would almost certainly not resolve the noise nuisance issue. Did Mr. Koenig ever visit this site? Did any city employee indicate to Mr. Koenig that based on this new location noise from these two flags would not intrude onto our property and not create a noise nuisance complaint? The nearest property boundary is probably less than 20 feet away from this new flagpole location and noise from the previous location was noticeable inside our home and at distances greater than 40 feet. Did Mr. Koenig notice that in all of the pictures of flying flags that there was a flag and a sign flying? As explained later, this new location will not resolve the noise nuisance issue. A reduction in the flagpole height might cure this problem. Because this is a telescoping flagpole a reduction in height can be easily be accomplished. A restriction on the flagpole height to 13 feet, based on the manufacturer's recommended flagpole height, when the permit was issued, might also have solved this problem.

There are always two flags flying at this site when flags are displayed. Previously the flagpole was always extended to 21 feet when flags were flying. Mr. Koenig states that he will monitor the noise levels inside our house to determine if there is a code violation. Noise levels are not to intrude onto an adjacent property. MMCs 6.76.020. (5) states "Property boundary" means the surveyed line at ground surface, which separates the real property owned, rented, or leased by one or more persons, from that owned, rented, or leased by one or more other persons, and its vertical extension. This code means that for a complaint to be filed, the noise must extend only onto our property, not into our home or house. Will the city investigate and enforce the code as written or can Mr. Koenig change this code with his discretionary powers? If he has this discretionary power, please explain in detail why the city would investigate a noise nuisance violation in the manner that he suggests. We request a response to this question because the flags are now flying 24 hours a day. At noon on 12-29-2016, excessive noise from the flags was noticeable inside the home and as far as 30 to 50 feet inside our property boundaries. We did not investigate any further than the areas and distances mentioned in the preceding sentence. At the same time that these flags were creating noise the flag at 2909 73rd Ave. NE was unaffected by the wind. There is a significant difference in

the wind velocities between these two locations. During the night from 1-8-2016 to 1-9-2017 our family members' sleep was interrupted due to excessive noise from flapping flags. This notice to you is not a noise complaint, merely information.

We were confident, and informed the city and the homeowner, that relocating the flags to another location in this small front yard would not eliminate the noise levels that are produced by these flags. The city was not required to approve this new building permit since this flagpole is 21 feet high and the current code height limit is 20 feet. No homeowner has the right to construct a structure that does not conform to the code. According to Ms. Hirashima's reply, Mr. Koenig decided to allow a structure to be installed that exceeded the code height limit based solely on a one foot differential and industry standards. Due to this minor difference such a decision might be considered to be reasonable. Is this one foot difference a variance that must be applied for and notice given to adjacent property owners? This 21 foot height exceeded the manufacturer's recommended height by 8 feet. One might conclude that the manufacturer's recommended heights are industry standards. Why did these employees not consider the manufacturer's recommended height limits? We conclude that these factors were not considered because they are not mentioned in the building permit file or in your response. Was Mr. Koenig's decision the best decision for the city based on the available data? Should 21 foot high flagpoles be permitted on small residential sites? If not, why grant exceptions to two different addresses?

There are actually two flagpoles that were granted this one foot change in height. Does the decision to allow this 21 foot flagpole permanently change the existing 20 foot high limit for all future flagpole installations? If not why was special consideration given to this flagpole and the flagpole at 2909 73rd Ave. NE? Was the fact that these two homeowners had already bought and installed, without permits, 21 foot high flagpoles a factor in making this change? Was this a code variance granted only to these homeowners? If this is a variance, were the proper requirements for granting a variance completed? Were the flagpole manufacturer's recommended flagpole height limits reviewed prior to this change? Is the manufacturer's recommended height of 13 feet an industry standard? Flagpoles are lightning rods. How close to gas lines should these flagpoles be located? Was the city aware that this particular lot is exposed to higher wind levels than some surrounding lots? Prior to approval of this building permit had anyone approving this permit visited this site? After visiting this site and before completing this permit did any of the city employees question the advisability of locating a 21 foot high flagpole on this site? Is the 21 foot high flagpole that is located in a very small front yard that is exposed to more wind than surrounding sites advisable? Should the city have considered that a smaller height (similar to the manufacturer's recommendation) would be best for this particular site? Did the city officials have all of this information available to them before granting this height change? Would this completed flagpole with flags flying be aesthetically pleasing (a consideration mentioned in MMC 22A.010.030) to the majority of the populace? Who would determine whether this flagpole is aesthetically pleasing? Shouldn't such factors be considered before making height limit changes? Was the decision to grant this permit the best solution

given the fact that these codes will be soon be reviewed, revised and replaced? Both of these flagpoles were previously installed without the proper permits.

There are many more facts about flagpoles that should have been considered before these permits were granted. These permits are now complete and any future code changes will not apply to these two flagpoles. The city was not required to issue these permits because of the current 20 foot height limit. We present two possible options to Mr. Koenig's decision to allow a one foot exception to the code in order to approve the permits for these two flagpoles.

1) Mr. Koenig should be aware that higher flagpoles expose the flags to higher wind velocities which generate more and louder noise. This telescoping flagpole has adjustable heights of at least 13, 17 and 21 feet. Since the 21 foot high flagpoles would not conform to the current code, why not allow the flagpoles to be installed with a 13 foot height limit (manufacturer's recommended height) as a condition for granting these permits? Did Mr. Koenig or any city official ask either of these homeowners if such a limit would be acceptable to them?

2) The applicants would not have been harmed by delaying the approval and construction of this flagpole. The city could have required that this flagpole and the existing flagpole at 2909 73rd Ave. NE. be lowered and kept in the lowered position until new codes were imposed. This would insure that these flagpoles would conform to any newly approved codes. Did Mr. Koenig or any city official ask either of these homeowners this type of limitation would be acceptable to them?

We would like to know the extent to which the city considered various factors in granting these two permits. We do realize that any flagpole permit application that met current codes would have been approved. The city shared our concerns that the present codes were inadequate and indicated that these codes would be updated and clarified within the next three months. Why did the city conclude that these flagpole permits, which required special considerations, should be processed before these possible revisions? Having these two flagpoles conform to any new code requirements would appear to be the best solution.

In her response to us, Ms. Hirashima quotes section 22C.180.020 Accessory structure standards.

(1) Accessory structures on properties less than one acre in size shall comply with the following density and dimensional requirements:

(c) The community development director may allow minor deviations to these dimensional requirements in order to accommodate industry standards for building dimensions.

The basis used by Mr. Koenig to allow the violation of the 20 foot height limit appears to be item c "in order to accommodate industry standards for building dimensions". One would conclude that the 20 foot code height limit was set for specific reasons. There are 21 foot high flagpoles and 20 foot flagpoles listed for sale and both are industry standards. Was this change to allow a 21 foot high flagpole made because two

homeowners already owned 21 foot high flagpoles? One can only conclude from this information that in spite of all the reasons not to allow a 21 foot high flagpole on this site that Mr. Koenig concluded that allowing this minor change was the best conclusion even though this height exceeded the manufacturer's recommended height by 8 feet. One might conclude that the manufacturer's recommended flagpole heights are industry standards. At the least, these recommendations are better than any present code limits. We would like to know the basis and reasoning for Mr. Koenig's decision. One might expect that this information would be in the building permit file, but there is very limited information in this completed file. According to your reply, the basis is a one foot differential. Why were the manufacturer's recommendations, the 20 foot height limit and many other factors not considered? Was a variance for this one foot difference required? If so, why weren't the property variance procedures adhered to in processing this permit? Was Mr. Koenig's decision the best decision for the city based on the available data?

Would you, as Mayor, conclude that all of the facts were considered and that the decision to grant this one foot waiver was in the best interest of the city?

We have now been advised (after three requests for this information) that the plan review or review by a building official is now a structural review. The city made this decision. Evan has seen several structural reviews (a review of structural plans which were always prepared by licensed engineers) and a structural review of the plan submitted to the city would contain many items not available on this plan. The city has made their decision. One can only hope that the definition of a structural review and the data that must be included in a structural review will be changed with a review of this code.

Mr. Dorcas and Mr. Koenig completed this building permit file. Both individuals should set the example for their employees. One might expect that all pertinent data regarding this permit would be in this permit file. Missing from this building permit file are any appropriate comments about the fact that the code height requirement was changed, why it was changed, the applicable code that allows this change and the individual who made this change. There are no comments as to why a 21 foot height was considered to be the best height and why the manufacturer's recommended height of 13 feet was not applicable. There are no comments regarding the fact that the manufacturer's height limits were reviewed, considered or even available to these employees. There should also be comments stating that the plan review is a structural review including the name of the individual making this decision. There are no comments regarding the fact that the plan review fee was waived, why the fee was waived, who waived this fee and the code that allows this person to waive this fee. No one reading this file will ever be aware of these facts.

One might expect to see comments like the following: The flagpole height of 21 feet, which exceeds the code limit of 20 feet, is approved by Mr. Koenig per code section 22C etc. This change is not a variance due to code number xxx and applies only to this permit. These types of comments would clarify some issues. Is this change in height a

variance? If so, was an application for a variance submitted and were the proper procedures followed? If this was a variance the appropriate comments should be in this file. Does this height limit change apply only to this permit? Is a new city wide height limit of 21 feet for flagpoles established by this one foot change?

Additional comments should include a statement that the manufacturer's height limits are not applicable due to the following reasons xxxxx. A plan review fee was not charged for this permit. The appropriate comments regarding the waiver of this fee and the lack of a structural review should be included in this file. These comments might be as follows: This plan review is considered to be a structural review by (employee name). The plan review fee is waived by (name of employee) per MMC number xxx and this fee was waived because a minimal review was needed. If the appropriate comments were included in this file, we would never have questioned this matter and Ms. Hirashima would not have had to waste her time obtaining the answer and responding to our questions. These same questions should be asked about the permit and the lack of the preceding information in the permit file for the flagpole that was granted to 2909 73rd Ave. NE. This 21 foot high flagpole permit was issued for the same reasons as the flagpole at 2914 73rd Ave. NE.

We have questioned some of Mr. Koenig's previous statements and decisions and his decision to allow this non conforming flagpole to be installed now means that many other flagpoles of the same or a greater height can be installed. The two city employees relied on the manufacturer's plan to make their decision. We believe that we and Mr. Koenig have a limited knowledge of flagpoles and the dangers, construction requirements and other factors that should be considered in determining the code requirements for the MMC. We wonder why Mr. Koenig placed so little emphasis on the manufacturer's recommendations for flagpole height, when he opted to allow the one foot height differential between the MMC and this flagpole. Did Mr. Koenig review the manufacturer's recommendations for flagpole heights, which were readily available? The manufacturer recommends a flagpole height of 13 feet for small single family homes, like the subject, and 17 feet for mid size homes or 2 story structures. The present location is in a very small, irregularly shaped front yard and a 13 foot height is recommended for this type of location. A 21 foot height is recommended for large homes (probably estates) or large areas. Are these recommended heights industry standards? Did Mr. Koenig conclude that although the 21 foot height of this flagpole exceeds, by 8 feet, the manufacturer's recommended height, that the 21 foot height should become a standard height for the city? Please supply us with the reasoning that supports Mr. Koenig's decision to ignore the manufacturer's recommended height limits. One might conclude that pertinent comments would be in the building permit file. One might conclude that the same emphasis would have been placed on the manufacturer's suggested flagpole heights as that placed on the manufacturer's plan for installation. We conclude that Mr. Koenig may not have been aware of the manufacturer's recommended height limits since there is no mention of these facts in Ms. Hirashima's response and the building permit files for 2914 73rd Ave NE and 2909 73rd Ave. NE.

The city council

We do not want to burden these members with unwarranted problems. We know that there are several problems and policies within certain city departments that are a waste of time and money. We intend to make the council aware of these problems, may be appearing at future meetings and expect that constructive changes will result from the information that we will present. Because of our involvement, and we believe Ms. Hirashima's actions some of the city codes will be revised. There are other sections of the codes that we have reviewed and which may need further clarification. Revising and improving the MMC will result in some minor constructive changes, but more, significant changes need to be made to these types of codes. We will address the comments in the previous sentence in the future.

We have a few questions about the procedures for citizens who wish to speak on matters that are not on the agenda at City Council Meetings.

We tried to obtain as much information on the procedures before speaking at the meeting on 11-28-2016. Evan attended the 11-14 meeting, but no one spoke during the time allotted for comments that are not on the agenda. We were told that each individual can speak for 3 minutes. Before the meeting we presented the 10 copies of our documents to the recorder as we were told to do. We each filed a request to speak and asked if just one of us could speak for six minutes and we were told that this was acceptable. Apparently this information was not relayed to you and you indicated to Evan that he should speak for only 3 minutes. When he replied that he would talk for about five and one half minutes you suggested that he cease speaking until he is at the podium, and we understand why you made this comment. Can one of us speak for the entire six minutes? If so, to avoid any sign of favoritism, perhaps the audience should be advised why one of us will be speaking for six minutes.

Evan then proceeded to read this very abbreviated statement, copies of which were provided to the council. We doubt that anyone listening only to our verbal statement would be able to understand our comments due to their abbreviated form and the time limit. That is why we supplied the council with the lengthy written version. We were not dissatisfied with Ms. Hirashima's responses to our emails, but we believed that the council should be directly informed about the problems with Mr. Koenig's lack of complete responses to our questions and requests for information, and his unsupportable interpretation of some of the codes. Mr. Koenig has many discretionary powers, so our intent was to notify the council of our opinions and the facts on which our opinions are based.

We would like you to respond to the following questions:

Can we ask questions of the city employees who attend the council meetings and the council members and have their responses after we have finished speaking and assuming that their response would not be lengthy or complex? If so, would the council prefer that we send our questions to them or the employees at least a week before we

present our questions? If an immediate response is not possible could we receive answers by email or must these answers be provided at a future council meeting?

Some questions about policies can be answered by the staff. However, we believe that some problems and recommended solutions should be presented to the council for their review. Is it necessary that we speak at a council meeting in order to present this information to the council?

Processing our complaint.

The processing of our complaints could easily have been completed in the 2 to 3 week time period suggested by Mr. Koenig on 9-7-2016. The codes pertaining to the violations present at the subject site are very clear. Processing this complaint would have required very few and very simple steps. Verifying that no permit was issued would take very little time or effort and would reveal that a construction plan was not submitted and that a structural review was not completed. If a plan was not submitted to the city the plan could not have undergone a structural review. The first code enforcement inspection of the property revealed that this was a flagpole and that the set back requirement was violated. A simple code enforcement letter stating that the flagpole must be removed could have easily been mailed. This process could not have involved much more than a day or two of employee time at most.

We should never have met Ms. Hirashima or at least ten other very helpful and competent employees. At least 20 employees who should not have been involved in this process were referenced in various emails, contacted by phone or spoken with. Several excuses were offered for the delay and problems involved in processing this complaint. These excuses are not justifiable. The delays and extra work were due to the problems listed in our 11-28-2016 statement, in our emails to Ms. Hirashima and other correspondence. The codes were clear and easily interpreted. A flagpole is an accessory structure. The fact that this accessory structure is a flagpole would not create any problem with enforcement action. The fact that some other unrelated codes that are unclear might need clarification should have had no effect on the processing of our complaints.

The numerous emails and consultation among all of the employees which were created by some unknown confusion within this department resulted in the waste of many hours of employees' time.

Based on a review of the numerous emails, phone calls and office visits produced by this process, we would conclude that at least \$2,000 to \$4,000 (probably more) of time was wasted and this estimate does not include the allocated cost of equipment and materials. Do you think that a reasonable cost estimate of the wasted time and resources should be presented to the council? Should someone explain why this time was wasted? Should the public be notified of this type of cost overrun, or should we be kept ignorant of these types of problems? If the city believes that there was no waste of resources and time, please supply us with justification of your position. These wasted employee hours were not the result of our complaint which could have been quickly and easily processed.

Item 3 in our 11-28-2016 statement.

We were not concerned about the amount of the charge or that it was not paid. Typically, Ms. Hirashima understands and replies to a direct question, but not this time. Our questions were: Quote "This is simply a question about who can change the MMC's? Can city employees change these code requirements?" Neither of these questions was answered. The response indicates that the department waived the fee. Which employee waived this fee and did this employee have the authorization to do so? We do not want their name and we do not want them punished if they acted inappropriately. Can city employees change the municipal codes that are approved by the city council and which we would assume the council would require employees to comply with? Is there a separate code that allows city employees to change any of the fees that are required by many codes in the MMC? For example can employees waive, reduce or increase any of the building permit fees? If the employee that waived this fee has the authorization to do so then they acted appropriately. If employees are granted the option of reducing fees specified in the MMC, is there a list of these employees? Is there a code that allows city employees to change these fees? Why not include a comment in the permit file stating that the fee was waived, why it was waived, who waived it and the code that allows such a change. Then our question would never have been necessary.

We would like a response to each and every question that we present in this statement. If the city believes responses are not warranted, please supply us with the city's reasons for refusing to answer our questions.

We received Ms. Hirashima's response and time line of events and Ms. Hirashima is aware of some of the facts about the processing of our complaint. We believe that her response is the council's response. We will be emailing an abbreviated response to her statements and a similar, more complete, time line of these events to you and every council member. The majority of the comments to the council are from this statement to you. We would like you to answer the two questions in this other email that are addressed to you on page one. The other new information to you will be the time line that is in that email.

We realize that this is a lengthy message that will require substantial effort on your part in order to complete a response. We understand that some of the questions might be answered by your staff, but we hope that you will read this message and approve their responses. We hope that a review of these facts will result in constructive changes, make you more aware of some of these existing problems as well as the many efficient, competent and helpful city employees.

Sincerely yours,

Evan and Patricia Kaiser



EXECUTIVE DEPARTMENT
1049 State Avenue ♦ Marysville, WA 98270
(360) 363-8100 ♦ (360) 651-5099 FAX

February 3, 2017

Evan and Patricia Kaiser
2910 73rd Avenue NE
Marysville, WA 98270

Subject: 11 page email to Mayor Nehring sent 1/11/17

Dear Mr. and Mrs. Kaiser:

I am responding to the email sent to Mayor Nehring 1/11/17. The email was quite long and presented many questions and comments. As staff to the Mayor, he has asked me to respond to some of your concerns, many of which relate to code language and questions under the purview of the Community Development Department. I have consulted with staff, and further reviewed sections of the code that you highlighted in your email. Again, as in previous correspondence with you, I am not answering every one of your questions, instead focusing on a few of the repeated themes from this email and prior correspondence. Marysville citizens expect response on a wide expanse of issues and our organization has collectively (between multiple CD staffers, Clerk's staff, Mayor's staff, Council) spent well over a hundred hours responding to your flag concerns and while some of your concerns have been identified for action & response, on other items we disagree and do not propose any response or action.

Many of your questions relate to interpretation of the Unified Development Code (Title 22) and potential contradictions within referenced codes. You raised concerns about 22C.160.070 Prohibitions (Signs) contradicting 22A.020.200 and 22C.160.080. Title 22C.160 relates to Signs. The stated purpose of Title 22C.160, is as follows **"22C.160.010 Purpose. The purpose of this chapter is to provide for the reasonable display of signs necessary for public service or the conduct of business. . ."** After reviewing your questions and familiarizing myself with the code language, it is my opinion that flags on residential properties, not displayed for either public service or the conduct of business are not covered, or intended to be covered, by Title 22C.160 Sign Code. I disagree with the contention that flags on residential properties are subject to the Sign Code at all. Staff at CD have taken a more conservative interpretation than I would, by choosing to read residential flags as an exemption to the Sign Code, subject to permit requirements. In my view, after reading the overarching purpose of the sign code, I would not have interpreted residential flags as being covered by the sign code at all. They are not flown for the conduct of business and therefore Title 22C.160 should not apply.

So, in some sense, I agree with you. You have raised that sections 22C.160.070, 22A.020.200, and 22C.160.080 are contradictory. They are if you believe residential flags are covered by Title 22C.160.

They are not contradictory, if you are of my position, which is that Title 22C.160 does not cover flags flown on residential properties. Title 22A.020.200 then is consistent with that reading and poses no contradiction.

Consistent with their interpretation, staff worked with the neighboring properties to bring the signs in violation of this code interpretation into compliance. This would have been required whether or not the flags are believed to be subject to Title 22C.160, as the structure did not meet required setbacks for an accessory structure. Consistent with their interpretation that residential flags are subject to the Sign Code, they are currently working with the Planning Commission to revise the Sign Code and related sections. I have attached the Planning staff report that relates to these sections.

You have asked many questions related to permit process and review. After reviewing the various sections of the Sign Code more thoroughly, I now disagree entirely that any permit should have been required at all for the residential flag. As a result, I do not have a response to whether proper process was followed relating to the building permit, because I do not think CD staff should have required a permit for this particular use. I do still agree that the flag is an accessory structure, subject to setbacks, and height restrictions. CD staff properly applied setbacks to the relocated flagpole. CD staff also properly applied height review as indicated by Mr. Koenig's response to you on 1/17/17.

You have asked for a response to the question -Can city employees change code requirements or MMC's? The answer to that is no. Code that is adopted by ordinance can only be changed by the City Council. However, as identified in my responses, staff can interpret code, and because codes are complex and there are multiple layers of code sections which can apply to a given situation, this requires that the staff and employees read and interpret code and if it is unclear, give weight and consideration to the stated purpose of the ordinance.

Sincerely,



Gloria Hirashima
Chief Administrative Officer



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

MEMORANDUM

DATE: February 8, 2017
TO: Planning Commission
FROM: Angela Gemmer, Senior Planner
RE: 2016-17 Code Amendments – Flags and Flagpoles
CC: Dave Koenig, Community Development Director
Chris Holland, Planning Manager
Cheryl Dungan, Senior Planner
Amy Hess, Associate Planner

The following proposed amendments are to clarify what constitutes a flagpole as well as the applicable height and setback requirements. Also included in the amendments is a revision to the flag reference in the definition of “sign”, and the elimination of flags from the exemptions section of the sign code.

DEFINITIONS

22A.020.070 “F” definitions.

“Flagpole” a tall pole from which a flag hangs.

22A.020.200 “S” definitions.

“Sign” means any device, fixture, or placard that is visible from a public right-of-way or surrounding properties and uses graphics, symbols, logos, or written copy conveying a message or image and used to inform or attract the attention of the public, such as advertising or identifying an establishment, product, goods, service or activity. A sign may have multiple faces and advertise multiple on-premises establishments, businesses, products, services, or activities. This definition does not include any flag of any country, state or local jurisdiction. Unless the context clearly provides to the contrary, a “sign” as used in this chapter also includes the “sign structure.”

RESIDENTIAL ZONES – HEIGHT

22C.010.220 Height – Exceptions to limits.

The following structures may be erected above the height limits of MMC [22C.010.080](#):

- (1) Roof structures housing or screening elevators, stairways, tanks, ventilating fans or similar equipment required for building operation and maintenance; and
- (2) Fire or parapet walls, skylights, chimneys, smokestacks, church steeples, and utility line towers and poles.

(3) Flagpoles may rise ten feet above the height limit, or five feet above the highest point of the roof, whichever is greater.

RESIDENTIAL ZONES – SETBACKS

22C.010.210 Setbacks – Projections allowed.

Projections may extend into required setbacks as follows:

- (1) Fireplace structures including eaves and factory-built garden or bay windows may project into any setback, provided such projections are:
 - (a) Limited to two per facade;
 - (b) Not wider than 10 feet; and
 - (c) Not more than 24 inches into a side setback or 30 inches into a front or rear setback;
- (2) Uncovered porches and decks, including stairs, which exceed 30 inches above the finished grade may project:
 - (a) Eighteen inches into side setbacks; and
 - (b) Five feet into the front or rear setback;
- (3) Uncovered porches and decks not exceeding 30 inches above the finished grade, and uncovered accessory structures such as radio antennas and dishes, mechanical equipment, play structures, and tennis courts, may project to the property line, provided that, with the exception of uncovered porches and decks, the front property line setback for the zone shall be observed;
- (4) Eaves may not project more than:
 - (a) Twenty-four inches into a side setback;
 - (b) Thirty-four inches into a front or rear setback; or
 - (c) Eighteen inches across a lot line in a zero lot line development.
- (5) Accessory structures such as flagpoles and lampposts shall be setback a minimum of five feet from all property lines, provided
 - (a) They are not located within a utility or access easement, and;
 - (b) Flags are not displayed in a manner that would cause the flag to encroach onto a neighboring property.

COMMERCIAL ZONES

22C.020.190 Height – Exceptions to limits.

The following structures may be erected above the height limits of MMC [22C.020.080](#)(2):

- (1) Roof structures housing or screening elevators, stairways, tanks, ventilating fans or similar equipment required for building operation and maintenance; and
- (2) Fire or parapet walls, skylights, chimneys, smokestacks, church steeples, flagpoles and utility line towers and poles.

SIGN CODE

22C.160.080 Exemptions.

The following signs are exempted from obtaining a sign permit, but must comply with all other requirements of this chapter and with the specific requirements set forth below for each type of sign:

- (1) A change in the face of the sign or advertising copy of an existing, legally permitted, sign.

- (2) Temporary and special event signs meeting the requirements of MMC [22C.160.230](#).
- (3) On-premises and portable commercial or real estate signs meeting the requirements of MMC [22C.160.230](#)(5) and (6).
- (4) Political signs meeting the requirements of MMC [22C.160.230](#)(7).
- (5) Nonelectric signs not exceeding four square feet per face, which are limited in content to the name of occupant and address of the premises in a residential zone.
- (6) Instructional signs, not exceeding six square feet per sign; provided, that foundation, anchorage, attachments and other structural support of the sign and electrical connection require construction permits.
- (7) Menu signs. Foundation, anchorage, attachments and other structural support of the sign and electrical connection require construction permits.
- (8) Seasonal decorations. Reasonable seasonal decorations within an appropriate holiday season or during a festival are exempt from this section as long as such displays are removed promptly at the end of the holiday season or festival.
- (9) Sculptures, fountains, benches, lighting, mosaics, murals, landscaping and other street furniture and design features, which do not incorporate advertising or identification.
- (10) Signs not visible from public way. Exterior and interior signs or displays not intended to be visible from streets or public ways, signs in the interior of a building more than three feet from the closest window and not facing a window, window displays and point of purchase advertising displays such as vending machines.
- ~~(11) The flag, emblem or insignia of a nation or other governmental unit or nonprofit organization, subject to the guidelines concerning their use set forth by the government or organization which they represent. Flag poles require a construction permit for structural review.~~
- ~~(11)2~~ Traffic or other municipal signs, signs required by law or emergency services, railroad crossing signs, legal notices, and any temporary signs specifically authorized by the city council or authorized under policies and procedures adopted by the city council.
- ~~(12)3~~ Signs of public utility companies indicating danger or which serve as an aid to public safety or which show the location of underground facilities or of public telephones.
- ~~(13)4~~ Memorial signs or tablets, names of buildings, stained glass windows and dates of erection when cut into the surface of the facade of the building or when projecting not more than two inches.
- ~~(14)5~~ Incidental signs, including, but not limited to, "no trespassing," "no dumping," "no parking," "private," signs identifying essential public needs (i.e., restrooms, entrance, exit, telephone, etc.) and other information warning signs, which shall not exceed three square feet in surface area.
- ~~(15)6~~ Flush-mounted wall signs which are used to identify the name and address of the occupant for each dwelling, provided the sign does not exceed two square feet in sign area.
- ~~(16)7~~ Gateway entrance signs. Gateway entrance signs that comply with the city of Marysville gateway master plan. Foundation, anchorage, attachments and other structure support of the sign and electrical connection require construction permits.

Staff respectfully requests that Planning Commission make a recommendation of approval of the flags and flagpoles amendments to City Council for adoption by Ordinance.