


**CITY OF MARYSVILLE AGENDA BILL**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: June 13, 2022**

<b>AGENDA ITEM:</b>	
Consider Planning Commission’s recommendation related to code amendments proposed for MMC Chapter 22.090, <i>Residential Density Incentives</i> .	
<b>PREPARED BY:</b>	<b>DIRECTOR APPROVAL:</b>
Haylie Miller, Community Development Director	
<b>DEPARTMENT:</b>	
Community Development	
<b>ATTACHMENTS:</b>	
1. Memorandum – City Council 06-13-22 2. RDI Comment #1 3. Planning Commission Recommendation 4. Planning Commission Meeting Minutes – 03-22-22 & 04-26-22 5. Adopting Ordinance	
<b>BUDGET CODE:</b>	<b>AMOUNT:</b>
N/A	N/A
<b>SUMMARY:</b> The City of Marysville regularly updates development standards to address changing needs and to maintain compliance with changes in Washington State (State) laws. During the last several years, the State has revised development codes related to stormwater management and the International Energy Code. During 2020 and 2021, the City received requests for clarification and inquiries relating to various sections within Marysville Municipal Code Chapter 22C.090, <i>Residential Density Incentives</i> (RDI).  The proposed amendments provide clarity and address changes to adopted State and City regulations related to stormwater management requirements and 2018 International Electrical Code along with other areas requiring clarification and/or modifications.	
<b>RECOMMENDED ACTION:</b> Uphold the Planning Commission recommendation of approval.	
<b>RECOMMENDED MOTION:</b> Move to adopt Ordinance No. _____, approving amendments related to code amendments proposed for MMC Chapter 22.090, <i>Residential Density Incentives</i> .	



## MEMORANDUM

**TO:** City Council

**FROM:** Haylie Miller, Community Development Director

**DATE:** June 13, 2022

**SUBJECT:** Code Amendments for Residential Density Incentives, MMC 22C.090

**CC:** Gloria Hirashima, Chief Administrative Officer  
Chris Holland, Planning Manager  
Angela Gemmer, Senior Long Range Planner

**Background Information:** The City of Marysville regularly updates development standards to address changing needs and to maintain compliance with changes in Washington State (State) laws. During the last several years, the State has revised development codes related to stormwater management and the International Energy Code. During 2020 and 2021, the City also received requests for clarification and inquiries relating to various sections within Marysville Municipal Code Chapter 22C.090, Residential Density Incentives (RDI). Specific questions and clarifications include:

- What credits are available when using public benefit 9(a) *Low impact development*, with changes to the City's minimum stormwater management requirements?
- When is payment required when using public benefit 3(a) *Community image and identity*?
- What is the minimum rating the City requires for the *Built Green* program under public benefit 8(a) *Energy conservation*?

**History of the RDI regulations in Marysville:** The City adopted the original RDI regulations in 2003 by Ordinance 2481. This code was adopted to encourage higher density developments within the R-12 and R-28 residential zoning designations, while ensuring said developments provided public benefits by exceeding the basic development requirements. The original code established six eligible public benefit categories and associated bonus lot calculations. The original eligible categories were affordable housing; open space, trails and parks; historic preservation; location/mixed-use; storm drainage facilities; and project design.

The RDI standards have been amended three times since 2003:

- 2011 with the adoption of Title 22 Unified Development Code. The amendments include:
  - a. Revised the purpose statement and zones allowing an increase in residential development densities.
  - b. Revised benefit category 2 from “Open space, trails and parks” to “Public Facilities,” and added to the eligible public benefit options.
  - c. Established three new eligible public benefit categories: Community Image and Identity; Energy Conservation; Low Impact Development; and Pedestrian Connections and Walkability.
  - d. Established a section providing rules to calculate the total number of permitted dwelling units.
  - e. Established review processes for projects (subdivisions and site plans) that include RDI to achieve maximum densities.
  - f. Established a section allowing for minor revisions to a project that includes RDI public benefits.
  - g. Established a section clarifying how RDI public benefits are incorporated with underlying zoning development standards.
  
- 2017 the following changes were approved:
  - a. Eliminated the annual requirement to review and revise the affordable housing parameters.
  - b. Revised the Community Image and Identity public benefit from specific projects to a flat rate of \$15,000 per bonus lot.
  - c. A minor revision to public benefit 9(b) – retention or creation of perimeter buffer (with landscaping) and the addition of option 7(c) – the installation of perimeter fencing or landscaping.
  - d. Revised the Energy Conservation public benefit from “Energy Star” homes to compliance with a broader range of programs, including Leadership in Energy and Environmental Design (LEED), Evergreen Sustainable Development Standards (ESDS), Built Green, or other equivalent program.
  - e. Established a new public benefit category: Critical Area Buffer Enhancement.
  - f. Minor revision to the review process, accounting for administrative approvals.
  
- In 2021, minor amendments were approved to reflect the adoption of the 2021 Downtown Master Plan amendments.

**Proposed Amendments:** The proposed amendments provide clarity and address changes to adopted State and City regulations related to stormwater management requirements and 2018 International Electrical Code along with other areas requiring clarification. Staff is proposing the following amendments.

1. Include a clause to specify the City does not permit overlapping public benefits. For example, the City does not allow a developer to receive credit for using RDI 7b (retention or creation of perimeter buffer) and RDI 7c (installation of perimeter fencing or landscaping) along the same lineal footage.
2. Specify when public benefits are required to be completed. Include this information in MMC Section 22C.090.080.
3. Adjust the per bonus unit monetary contribution towards an identified capital improvement project, including, but not limited to, parks, roadways, gateway sign, etc. Clarify that bonus units may only be claimed in whole numbers or 0.5 bonus unit increments.
4. Require a minimum of six feet of landscaping in addition to the perimeter fencing option in order to be eligible for credits.
5. Add enhanced entry landscaping as an RDI option.
6. Re-title and provide specifications for public benefit 8a – Energy conversation. Community Development has been working with the Master Builders Association (MBA) of King and Snohomish Counties’ Built Green Program Coordinator to address recent questions relating to this option.
7. Remove the following eligible public benefit options:
  - 9 – Low impact development. The City has adopted the 2012 Stormwater Management Manual for Western Washington (SMMWW), as amended in 2014. This manual requires all projects use low impact development (LID) techniques, when feasible. This benefit no longer exceeds the minimum development requirements. The City anticipates adopting the 2019 SMMWW in June 2022. The new manual also requires the use of LID.
  - 10 – Pedestrian connections and walkability. It has been difficult for the City to implement this option and find good projects that meet the intent of the public benefit. These are off-site improvements focused to fill in gaps around downtown. Applicants that have proposed to utilize this benefit ended up running into obstacles related to necessary right-of-way, utility relocation (both overhead and underground), stormwater improvements, etc. The money collected for capital projects can be utilized to complete these improvements, without burdening the applicant.

8. Provide more details for Green Building projects within MMC Section 22C.090.060 Review process. This includes what information is required at each stage of the development: preliminary approval, final approval and building permits.
9. At the request of the MBA, staff proposes to require LEED Gold status for new construction as shown in the proposed ordinance.
10. Establish an enforcement clause.

**Haylie Miller**

**From:** Dylan Sluder <dsluder@mbaks.com>  
**Sent:** Tuesday, April 5, 2022 2:02 PM  
**To:** Haylie Miller  
**Subject:** [External!] Built Green RDI Feedback

External Email Warning! Use caution before clicking links or opening attachments.

Hi Haylie,

I hope you are doing well and having a good week. I passed the RDI draft along to our Built Green team for feedback from their perspective, and I wanted to share their thoughts and concerns. Below is the email I received from them:

*Hi Dylan,*

*I have a significant issue with the amendment for item 8. They are allowing LEED-Silver as equivalent to Built Green 4-star. LEED-Gold is practically code minimum in WA, LEED-Silver is lower performing than LEED-Gold. Built Green 4-star was already far superior to LEED-Gold, and with our changes in 2021 the performance we require is even more substantial to LEED-Gold than it previously was. We need to request they at least use LEED-gold to provide some flexibility and fairness to the incentive. We are happy to provide them a report from City of Shoreline that can help explain this and talk with them again further on this issue.*

*Also what is a 0.20 bonus unit mean? Is that valuable to our builders in that market? I see they get an order of magnitude more for just making their landscaping prettier (see 7f). Would this effectively only be directed to production builders, but not very valuable for smaller builders building on smaller parcels?*

*Also could 8 be combined with the mixed use RDI (5a and 5b)? Because combining TOD with green building is a very attractive combination for many developers and tenants in those zones.*

*As for the enforcement timeline of receiving the green building certification within 90 days of CO, that is very tight. Most verifiers do not submit their projects to Built Green for certification until at least 60-90 days after CO, then it typically takes Built Green about 30 days to complete its review and issue the certification. That timeline does not account for any issues with verification delays or certification delays in the case I have to request more information or corrections. I would request they increase this to 180 so it is consistent with other jurisdictions. If they have concerns about this we can talk to them further about the process as well.*

I wanted to make sure to provide you with this information. Obviously, the issue with LEED and fairness needs to be discussed likely, and also the timeline issue they pointed out could be a big deal. Some of these other questions I think fall on me to try and answer but I wanted you aware of them.

I am happy to chat with you more if needed or connect you with Sonja on the BG team.

Thanks again for your work and openness to discussing these matters.

Best,

Dylan



**Dylan Sluder** | Snohomish County Manager

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**COMMUNITY DEVELOPMENT DEPARTMENT**  
 80 Columbia Avenue ♦ Marysville, WA 98270  
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## PC Recommendation - Residential Density Incentives

The Planning Commission of the City of Marysville, having held a public hearing on April 26, 2022, in review of amendments to Marysville Municipal Code Chapter 22C.090 Residential Density Incentives, and having considered the exhibits and testimony presented, does hereby enter the following findings, conclusions and recommendation for consideration by Marysville City Council:

### **FINDINGS:**

1. The Planning Commission held a public work session in review of the proposed changes to MMC Chapter 22C.090 on March 22, 2022.
2. The proposed amendment to MMC Chapter 22C.090 is exempt from State Environmental Policy Act review under WAC 197-11-800(19).
3. Community Development Staff submitted the DRAFT amendments relating to the proposed changes to MMC Chapter 22C.090 for expedited review pursuant to RCW 36.70A.106(3)(b).
4. The Community Development Department received a letter from the DOC acknowledging receipt of the DRAFT amendments related to MMC Chapter 22C.090 on March 29, 2022 and processed with Submittal ID 2022-S-3815. No comments were received from State Agencies.
5. The Planning Commission was provided public comments received throughout the review process and took into consideration testimony received from staff and the public at the duly advertised public hearing held on April 26, 2022.

### **CONCLUSION:**

At the public hearing, the Planning Commission recommended approval of the changes proposed to MMC Chapter 22C.090.

### **RECOMMENDATION:**

Forwarded to City Council as a recommendation to approve the proposed changes to MMC Chapter 22C.090 by the Marysville Planning Commission this 26<sup>th</sup> day of April, 2022.

By: \_\_\_\_\_  
 Steve Leifer, Planning Commission Chair



Planning Commission



1049 State Avenue  
Marysville, WA 98270

**Meeting Minutes  
March 22, 2022**

**CALL TO ORDER / ROLL CALL**

Chair Leifer called the March 22, 2022 Planning Commission meeting to order via Zoom at 6:00 p.m. Planning Manager Chris Holland called the roll.

**Present:**

Commissioner: Chair Steve Leifer, Vice Chair Jerry Andes, Commissioner Roger Hoen, Commissioner Kristen Michal, Commissioner Brandon Whitaker, Commissioner Tom Thetford

Excused: Commissioner Sunshine Kapus

Staff: Planning Manager Chris Holland, Community Development Director Haylie Miller, Storm & Sewer Supervisor Matthew Eyer, Assistant Planner Mara Wiltshire

Commissioner Hoen reported how his daughter in Denmark recently helped a Ukrainian family who had fled to Poland.

**APPROVAL OF MINUTES**

**February 22, 2022 Planning Commission Minutes**

Vice Chair Andes noted that under roll call regarding excused absences it says Steve Andes. This should be corrected to "Jerry" Andes.

**Motion** to approve minutes as corrected moved by Commissioner Andes, seconded by Commissioner Whitaker.

**AYES: ALL with Commissioner Thetford abstaining.**

**AUDIENCE PARTICIPATION**

Chair Leifer solicited audience participation on items not on the agenda. There were no comments.

## **NEW BUSINESS**

### **1. Code Amendment – 2019 Stormwater Management Manual for Western Washington**

Storm & Sewer Supervisor Matt Eyer reviewed this proposal to amend several code sections as outlined in the memorandum in the Planning Commission's packet. The amendments will adjust for the new 2019 Stormwater Management Manual for Western Washington which is the manual for design guidelines for development.

Vice Chair Andes asked how these amendments will affect the areas in town that are being filled and raised six or seven feet. Mr. Eyer explained that any project underway now would not be affected. The groundwater separation requirements and the subsequent design decisions made on those developments would not change. Most of the changes are revised text to eliminate redundancy or fix typos.

Commissioner Whitaker asked if this code has been challenging in general for the development community to meet the requirements. Mr. Eyer replied that the standards for western Washington are similar regardless of the city or county so the challenges are similar throughout the region. Planning Manager Holland added that different parts of the city have different impacts and challenges because of differences in the depth of the groundwater.

Chair Leifer referred to regulations regarding soil amendments and the shortened season for work which make sense in some parts of the city, but not so much in others. His understanding was that developers could submit their own ideas as long as they didn't undermine any of the basic principles. He asked about any opportunities for greater flexibility. Mr. Eyer explained there is inherent flexibility. The code just gives measures that can be taken if there are issues that need to be addressed. His understanding is that the flexibility is used out in the field.

Planning Manager Holland noted that there is also director discretion in the code. He can't think of any sites that have not been allowed to implement certain erosion control measures to continue to work throughout the winter. He added that 2021-2022 was a very difficult year with all the development activity in Marysville, but the City works very closely with the development community to ensure they can continue to work as much as possible.

Chair Leifer referred to previous discussions about fill and depths and the extreme impacts on the environment of having to haul all this fill around. He asked if staff had had an opportunity to discuss this further. Mr. Eyer replied they have discussed this, but it is a specific requirement of the current manual and the 2019 manual. To some extent it is a design decision that the courts have taken in terms of the desire to infiltrate.

Sometimes there is flexibility as long as it meets the requirements. In general, staff has not seen any way around separation requirements.

Mr. Eyer commented that this design manual is being pushed out through cities' NPDES permits. Chair Leifer reviewed his concern about DOE raising their standard for separation to five feet. He asked why the City couldn't knock off two feet with the mounding analysis and go to three similar to what they did when the requirement was three feet. Mr. Eyer explained how the elevation changes came about. He reviewed how LID went from an incentive option to a requirement. He is not aware of a way to revise this in the manual.

Chair Leifer commented that he will continue to advocate for things that will save money for the consumers and business owners in the community. He believes that the City will be at a disadvantage in competing with neighboring jurisdictions due to the level of the groundwater in certain areas and the separation requirements.

Planning Manager Holland commented that staff intends to bring the amendments back for a public hearing at the second hearing in April.

**Motion** to schedule this item for a hearing in April moved by Vice Chair Andes, seconded by Commissioner Thetford.

**AYES: ALL**

## **2. Code Amendment for Residential Density Incentives (RDI)**

Director Miller explained the RDI chapter was adopted in 2003 in order to provide density incentives to developers in residential zones in exchange for benefits that help achieve Comprehensive Plan goals and meet other criteria of livable neighborhoods and elevated standards. She explained reasons for the amendments and noted that some things that used to be incentive are now state requirements.

Proposed updates:

- Include a clause to specify the City does not permit overlapping public benefits. - Substantially similar benefits can't be used for two different categories.
- Specify when public benefits are required.
- Increase the amount for contribution toward a project to \$25,000 per unit to adjust for inflation.
- Remove the historic preservation benefit. There is only one historic building (the Opera House) in Marysville. – Staff does not think this will be used.
- Remove perimeter fencing or landscaping requirement in order to improve design or compatibility between neighboring land uses. – It appears that a lot of applicants are installing a perimeter fence anyway. The intent of this code is to elevate development in order to get additional density.
- Added option for enhanced entry landscaping into a development.
- Assigned ratings for different energy conservation guidelines in the code.

- Remove low impact development for storm since it is an outright code requirement now. Staff has not proposed an elevated standard for storm.
- Remove benefit for pedestrian connections and walkability. – All developers who looked into this ended up paying the fee instead.
- Remove critical areas buffer enhancement credit because it is rarely used.
- Other clarification/administrative changes.

Discussion:

Chair Leifer asked for more information about amendment 7 as listed in the staff memo (Benefit 8) regarding energy conservation and the discussion with Master Builders and Snohomish Counties Built Green Program to address recent questions. Director Miller explained that originally this code was exceeding what the building code already required. Since that time there was a building code update that further elevates requirements for homes' energy efficiencies so that standard became obsolete. She explained they have discussed with Master Builders and Built Green about what appropriate categories should be assigned for Built Green and LEED. These have been adjusted.

Commissioner Whitaker asked where the monetary contribution toward a project goes. Director Miller explained it would go into a fund to be used for a road, pedestrian, parks, or some other type of project that would be a benefit to the public. Planning Manager Holland further explained it would go to a capital project that was slightly underfunded or to meet grant matching needs. Commissioner Whitaker asked if it would need to go to a project that would help density. Planning Manager Holland replied that it would not necessarily go to anything that would help density, but it will go to items that are identified in elements of the Comprehensive Plan.

Commissioner Whitaker referred to the last bullet on amendment number 8 which would remove the option for pedestrian connections and walkability. He expressed concern about removing a tool that could help the City further improve density. Planning Manager Holland explained that it became so challenging for developers that it makes more sense to have the monetary contributions go toward capital projects to make an actual improvement.

Commissioner Michal asked how removing the historical preservation benefit might impact some of the more historic structures that are downtown. Director Miller explained that staff was interpreting this as historic landmarks as classified by the Department of Archaeology and Historic Preservation. She commented they could leave it in and with language clarifying that it could refer to something that is a historic landmark or as so designated by the City as determined by the Historic Society or some other group.

Commissioner Michel noted that Peter Condyles had commented in the meeting chat that the County did a historic building inventory a few years ago that has properties that

meet the definition of “historic” throughout the County, but many aren’t on an official list with the Washington State Department of Archeology and Historic Preservation.

Director Miller noted they could leave this option in. She then stated that staff is recommending this be moved to a public hearing. She summarized that the original intent was to push the applicants toward elevated standards, and these updates serve to make sure that is still happening. She noted that staff spends a lot of time with applicants working through these to make it as seamless as possible while still upholding the code.

There was consensus to move this to a public hearing in April.

### **C. Sunnyside/Whiskey Ridge Design Standard**

Planning Manager Holland explained there is some commercial development occurring down in the Soper Hill/Highway 9 area. As sewer gets extended there will be more development in the area. He noted that the sign codes that were adopted specifically for this area are very restrictive. Staff feels that they should be repealed and replaced with the existing sign code which has been updated frequently and seems to work for most development. Staff would also like to move the design regulations for this area into the municipal code.

Commissioner Whitaker asked for clarification about the areas that would be affected by the proposed changes to the sign regulations. Chair Holland clarified it would only affect development along SR9 and the 87<sup>th</sup> Avenue NE corridor that are zoned mixed use and commercial as well as a small area where there is a break in access for Highway 92.

There was consensus to bring this back for a public hearing.

Planning Manager Holland informed the Planning Commission of staffing changes. Senior Planner Kate Tourtellot has moved on the City of Monroe. Planning Technician Mara Wiltshire is also leaving for Snohomish County PDS.

### **ADJOURNMENT**

**Motion** to adjourn at 7:11 p.m. moved by Commissioner Whitaker seconded by Commissioner Michal.

**AYES: ALL**

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Laurie Hugdahl, Recording Secretary

Planning Commission



1049 State Avenue  
Marysville, WA 98270

**Meeting Minutes  
April 26, 2022**

**CALL TO ORDER / ROLL CALL**

Chair Leifer called the April 26, 2022 Planning Commission meeting to order via Zoom at 6:00 p.m.

**Present:**

Commissioner: Chair Steve Leifer, Vice Chair Brandon Whitaker, Commissioner Jerry Andes, Commissioner Roger Hoen, Commissioner Sunshine Kapus, Commissioner Kristen Michal, Commissioner Tom Thetford

Absent: None

Staff: Community Development Director Haylie Miller, Planning Manager Chris Holland, Project, Storm & Sewer Supervisor Matt Eyer, Program Specialist Katrina Williams

**APPROVAL OF MINUTES**

**April 12, 2022 Planning Commission Minutes**

Commissioner Hoen pointed out a typo on the middle paragraph of page 3: *Commercial* Michal should be corrected to *Commissioner* Michal.

**Motion** to approve the April 12, 2022 minutes as corrected moved by Commissioner Kapus, seconded by Commissioner Michal.

**AYES: ALL**

**AUDIENCE PARTICIPATION**

Chair Leifer solicited audience participation on items not on the agenda. There was none.

## **PUBLIC HEARING**

### **1. Code Amendment – Title 22 – 2019 Stormwater Management Manual**

Storm & Sewer Supervisor Matt Eyer introduced this item related to adopting the 2019 Stormwater Management Manual. The Planning Commission reviewed this item in a workshop on March 22. There was no new information. There were no comments or questions from the commissioners. Chair Leifer solicited public comments. There were none. The public testimony portion of the hearing was closed at 6:08 p.m.

**Motion** made by Commissioner Whitaker, seconded by Commissioner Andes, to forward the proposed amendments to the City Council with a recommendation for approval.

**AYES: ALL**

### **2. Code Amendment – Residential Density Incentives (RDI)**

Director Miller presented the proposed RDI amendments. Director Miller explained that some of the incentives in the code had become the status quo or a routine requirement, so they are seeking to remove those and add others.

- At a previous meeting the Planning Commission had recommended leaving the Historic Preservation incentive in. Staff agreed with that recommendation and has left it in.
- Staff has provided a checklist for Built Green incentives.
- The LEED status has been elevated to Gold because it is more aligned with the Built Green 4 status which staff is recommending.
- Staff had originally put in the code that the verification be provided within 90 days of occupancy. The MBA asked for this to be extended to 180 days. Staff is recommending 120 days as a compromise.
- Staff is proposing an edit to the perimeter fencing requirement. The original language said that perimeter fencing would only be counted as a benefit if it was visible from the right of way. It was suggested to staff to continue to allow perimeter fencing to be credited in all areas, not just areas visible from the right of way. As a compromise, staff has proposed requiring perimeter fencing plus six feet of landscaping. There is a condition that states if you are including additional landscaping as part of another requirement, you can't get credit for both. This proposed change is different from what is in the Planning Commission packet.
- There was a comment received from MBA about Low Impact Development which staff had proposed removing as an RDI option. When the LID incentive was originally added to this list was before the State required that applicants demonstrate feasibility with the LID regulations. Now the State requires that the applicant seek to do LID. If the site is not conducive to LID the applicant can say it is infeasible and do a storm vault

or another traditional method. Since LID requirements are now a requirement in the Stormwater Management Manual, staff did not feel that that was something that additional density should be awarded for since the point of the incentive table is to elevate standards. There was a request by MBA to leave the LID incentive in instances where a site is deemed infeasible but the applicant can go above and beyond normal methods to ensure LID is implemented on the site. Staff is still supportive of removing LID from the list.

#### Commissioner Questions:

Commissioner Kapus referred to the fencing and landscaping credit and asked if staff is envisioning that the 6-foot landscaping would be next to an adjacent parcel and then the fence. Director Miller affirmed this. She indicated that there is some discretion for situations where it wouldn't make sense. Commissioner Kapus expressed concern about the potential for an adverse possession situation if there is landscaping on the backside of the fence. Director Miller stated that if there are concerns about that happening, the applicant can choose another item off the RDI menu to increase density. Commissioner Kapus referred to the requirement that all benefits should be completed prior to final subdivision or prior to granting a certificate of occupancy. She asked what happens in a phased project. Depending on the incentive, Director Miller thought it would be due for each phase.

The public hearing was opened for public testimony at 6:24 p.m. Chair Leifer solicited public comments.

Dylan Sluder of Master Builders shared data related to the housing crisis due to low supply and low financial attainability of homes. He pointed out that the incentives are important to allow the prices of homes to be lower so that more homes may be affordable. He spoke in support of the proposed changes. He thanked staff for the inclusion of the fencing and landscaping credit in the RDI. He also recommended keeping the LID option in the code. He thanked the City for working with the Built Green team.

Chair Leifer asked for clarification about the difference in opinion between staff and Master Builders on the LID issue. As an example, Mr. Sluder explained that one of his members had a project that was deemed infeasible for LID, but they were able to achieve it anyway by going above and beyond the requirements of the Stormwater Management Manual. They would like to leave that opportunity for folks that do not have to do an LID to go ahead and do it as an incentive. They think the City will get more LIDs by leaving the incentive in.

The public testimony portion of the hearing was closed at 6:34 p.m.

#### Deliberation:



Commissioner Whitaker asked for clarification about the reason for removing the LID incentives. Director Miller explained that LID applicants are required to consider LID methods first in the Manual. If they can't, then they can go the next step with the stormwater vaults and other options. Master Builders is saying that if someone does it even when not required, they should be eligible for an incentive. Staff feels that since this is a requirement in the Manual it should not be an incentive. Commissioner Whitaker agreed.

**Motion** made by Commissioner Thetford, seconded by Commissioner Andes, to forward with a recommendation for approval the proposed changes to Residential Density Incentives, MMC Chapter 22C.090 including the changes regarding perimeter fencing as presented by Director Miller.

**AYES: ALL**

Commissioner Hoen expressed appreciation to Mr. Sluder for his comments and the data he provided. He cautioned against increasing costs to housing and keeping affordability in mind.

### **3. Code Amendment – East Sunnyside – Whiskey Ridge Design Standards**

Planning Manager Holland reviewed this item which would repeal the restrictive signage requirements from the East Sunnyside – Whiskey Ridge design standards and have that area be subject to the sign standards that are in MMC 22C.160. It would really only affect two areas zoned Community Business and Mixed Use within the East Sunnyside-Whiskey Ridge area boundary. Additionally, staff is recommending incorporating the design standards into the municipal code rather than a standalone document.

The public testimony portion of the hearing was opened at 6:45 p.m., and comments were solicited. Seeing none, the public testimony portion of the hearing was closed at 6:46 p.m.

**Motion** made by Commissioner Andes, seconded by Commissioner Thetford, to forward to City Council a recommendation to repeal Section G: Signage from the ESWR Design Standards and incorporating ESWR Design Standards outlined in Sections A – F into MMC Chapter 22C.070 East Sunnyside/Whiskey Ridge Master Plan Area – Design Requirements.

**AYES: ALL**

### **STAFF COMMENTS**

Director Miller reminded the Commission that the next meeting would be in person at City Hall with a hybrid format and would have a later start time of 6:30 p.m.

## **ADJOURNMENT**

Motion to adjourn at 6:54 p.m. moved by Commissioner Whitaker, seconded by Commissioner Hoen.

**AYES: ALL**

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Laurie Hugdahl, Recording Secretary

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

**AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, RELATING TO AMENDMENTS TO THE MARYSVILLE MUNICIPAL CODE RELATING TO RESIDENTIAL DENSITY INCENTIVES, INCLUDING AMENDMENTS TO MARYSVILLE MUNICIPAL CODE SECTIONS 22C.090.020, 22C.090.030, 22C.090.040, 22C.090.060, 22C.090.080 AND ADDING SECTION 22C.090.090.**

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

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

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

**WHEREAS**, the City of Marysville regularly updates development standards to address changing needs and to maintain compliance with changes in Washington State (State) laws; and

**WHEREAS**, during the last several years, the State has revised development codes related to stormwater management and the International Energy Code; and

**WHEREAS**, during 2020 and 2021, the City received requests for clarification and inquiries relating to various sections within Marysville Municipal Code Chapter 22C.090, Residential Density Incentives (RDI); and

**WHEREAS**, the City adopted the original RDI regulations in 2003 by Ordinance 2481; and

**WHEREAS**, the RDI regulations were adopted to encourage higher density developments within the R-12 and R-28 residential zoning designations, while ensuring that these developments provided public benefits by exceeding the basic development requirements; and

**WHEREAS**, the RDI standards have been amended three times since 2003; and

**WHEREAS**, the proposed amendments address changes to adopted State and City regulations related to stormwater management requirements and the 2018 International Electrical Code, along with providing general clarification; 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 the public meeting on March 22, 2022, the Planning Commission discussed proposed amendments related to the Residential Density Incentive changes and directed staff to schedule a public hearing; and

**WHEREAS**, on April 26, 2022, the Marysville Planning Commission held a duly-advertised public hearing, and recommended that the City Council adopt the Proposed Amendments; and

**WHEREAS**, during the public meeting on June 13, 2022 the City Council discussed potential amendments related to the Residential Density Incentives in MMC 22C.090 and recommended approval of said changes; and

**WHEREAS**, the City of Marysville has submitted proposed development regulation revisions to the Washington State Department of Commerce on March 29, 2022 (Material ID 2022-S-3815) seeking expedited review under RCW 36.70A.106(3)(b) and in compliance with the procedural requirements of RCW 36.70A.106; and

**WHEREAS**, the amendments to the development regulations are exempt from State Environmental Policy Act review under RCW 43.21C.450(1).

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

**Section 1. Amendment of Municipal Code Section 22C.090.020.** MMC Section 22C.090.020, entitled Permitted locations of residential density incentives, is hereby amended as set forth in **Exhibit A**.

**Section 2. Amendment of Municipal Code Section 22C.090.030.** MMC Section 22C.090.030, entitled Public benefits and density incentives, is hereby amended as set forth in **Exhibit B**.

**Section 3. Amendment of Municipal Code Section 22C.090.040.** MMC Section 22C.090.040, entitled Density bonus recreation features, is hereby amended as set forth in **Exhibit C**.

**Section 4. Amendment of Municipal Code Section 22C.090.060.** MMC Section 22C.090.060, entitled Review process, is hereby amended as set forth in **Exhibit D**.

**Section 5. Amendment of Municipal Code Section 22C.090.080.** MMC Section 22C.090.080, currently entitled Applicability of development standards, is hereby amended as set forth in **Exhibit E**.

**Section 6. Amendment of Municipal Code Section 22C.090.090.** A new MMC Section 22C.090.090, entitled Enforcement, is hereby adopted as set forth in **Exhibit F**.

**Section 7. Required Findings.** The amendments to MMC Title 22 (consisting of amendments to MMC Sections 22C.090.020, 22C.090.030, 22C.090.040, 22C.090.060, and

22C.090.080, along with adoption of the new and section 22C.090.090 are consistent with the following required findings of MMC 22G.010.520:

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

**Section 8. Amendment Tracking.** MMC Section 22A.010.160, entitled "Amendments," is hereby amended as follows by adding reference to this adopted ordinance in order to track amendments to the City's Unified Development Code (all unchanged provisions of MMC 22A.010.160 remain unchanged and in effect):

**"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>
_____	Residential Density Incentives	_____, 2022"

**Section 9. 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 10. Corrections.** Upon approval by the city attorney, the city clerk or the code reviser are authorized to make necessary corrections to this ordinance, including scrivener's errors or clerical mistakes; references to other local, state, or federal laws, rules, or regulations; or numbering or referencing of ordinances or their sections and subsections

**Section 11. 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 \_\_\_\_\_, 2022.

CITY OF MARYSVILLE

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

Attest:

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

DEPUTY CITY CLERK

Approved as to form:

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

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

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

## Exhibit A

### **22C.090.020 Permitted locations of residential density incentives.**

Residential density incentives (RDI) shall be used only on sites served by public sewers and only in the following zones:

- (1) In R-12 through R-28 zones;
- (2) Planned residential developments;
- (3) In MU, CB, and GC ~~and DC~~ zones;
- (4) SF, MF, and MU zones within the Whiskey Ridge master plan; and
- (5) DC, MS, F, FR, MMF, MH1, MH2 zones within the downtown master plan.

## Exhibit B

### 22C.090.030 Public benefits and density incentives.

(1) The public benefits eligible to earn increased densities, and the maximum incentive to be earned by each benefit, are set forth in subsection (4) of this section. The density incentive is expressed as additional bonus dwelling units (or fractions of dwelling units) earned per amount of public benefit provided. Where a range is specified, the earned credit will be determined by the community development director during project review.

(2) Bonus dwelling units may be earned through any combination of the listed public benefits. Substantially similar benefits cannot be applied to the same area or improvement type within a development, unless approved by the Director.

(3) Residential developments ~~in R-12 through R-28 zones~~ with property-specific development standards requiring any public benefit enumerated in this chapter shall be eligible to earn bonus dwelling units as set forth in subsection (4) of this section when the public benefits provided exceed the basic development standards of this title. When a development is located in a special overlay district, bonus units may be earned if the development provides public benefits exceeding corresponding standards of the special district.

(4) The following are the public benefits eligible to earn density incentives through RDI review:

Benefit	Density Incentive
<p>1. Affordable Housing</p> <p>a. Benefit units consisting of rental housing permanently priced to serve nonelderly low-income households (i.e., no greater than 30 percent of gross income for household at or below 50 percent of Snohomish County median income, adjusted for household size).</p> <p>A covenant on the site that specifies the income level being served, rent levels and requirements for reporting to the city shall be recorded at final approval.</p>	<p>1.5 bonus units per benefit, up to a maximum of 30 low-income units per five acres of site area; projects on sites of less than five acres shall be limited to 30 low-income units.</p>
<p>b. Benefit units consisting of rental housing designed and permanently priced to serve low-income senior citizens (i.e., no greater than 30 percent of gross income for one- or two-person households, one member of which is 62 years of age or older, with incomes at or below 50 percent of Snohomish County median income, adjusted for household size).</p>	<p>1.5 bonus units per benefit, up to a maximum of 60 low-income units per five acres of site area; projects on sites of less than five acres shall be limited to 60 low-income units.</p>



Benefit	Density Incentive
A covenant on the site that specifies the income level being served, rent levels and requirements for reporting to the city of Marysville shall be recorded at final approval.	
c. Benefit units consisting of mobile home park space or pad reserved for the relocation of an insignia or noninsignia mobile home that has been or will be displaced due to closure of a mobile home park located in the city of Marysville.	1.0 bonus unit per benefit unit.
<p>2. Public Facilities (Schools, Public Buildings or Offices, Trails and Active Parks)</p> <p>a. Dedication of public facilities site or trail right-of-way meeting city of Marysville or agency location and size standards for the proposed facility type.</p>	10 bonus units per usable acre of public facility land or one-quarter mile of trail exceeding the minimum requirements outlined in other sections of this title.
b. Improvement of dedicated public facility site to city of Marysville standards for the proposed facility type.	2 – 10 (range dependent on facility improvements) bonus units per acre of improvement. If the applicant is dedicating the site of the improvements, the bonus units earned by improvements shall be added to the bonus units earned by the dedication.
c. Improvement of dedicated trail segment to city of Marysville standards.	1.8 bonus units per one-quarter mile of trail constructed to city standard for pedestrian trails; or 2.5 bonus units per one-quarter mile of trail constructed to city standard for multipurpose trails (pedestrian/bicycle/equestrian). Shorter segments shall be awarded bonus units on a pro rata basis. If the applicant is dedicating the site of the improvements, the bonus units earned by improvements shall be added to the bonus units earned by the dedication.
d. Dedication of open space, meeting city of Marysville acquisition standards, to the city, county or a qualified public or private organization such as a nature conservancy.	2 bonus units per acre of open space.
<p>3. Community Image and Identity</p> <p>a. Contribution towards an identified capital improvement project, including, but not limited to, parks, roadways, <u>bicycle</u></p>	<u>\$15,000-25,000</u> per bonus unit. <u>Bonus units may only be claimed in whole numbers or 0.5 bonus unit increments.</u>

<b>Benefit</b>	<b>Density Incentive</b>
<p><del>facilities, pedestrian facilities, multi-use trails, utilities,</del> gateway sign, etc.</p>	
<p>4. Historic Preservation</p> <p>a. Dedication of a site containing an historic landmark to the city of Marysville or a qualifying nonprofit organization capable of restoring and/or maintaining the premises to standards set by Washington State Office of Archaeology and Historic Preservation.</p>	<p>0.5 bonus unit per acre of historic site.</p>
<p>b. Restoration of a site or structure designated as an historic landmark.</p>	<p>0.5 bonus unit per acre of site or 1,000 square feet of floor area of building restored.</p>
<p>5. Locational/Mixed Use</p> <p>a. Developments located within one-quarter mile of transit routes, and within one mile of fire and police stations, medical, shopping, and other community services.</p>	<p>5 percent increase above the base density of the zone.</p>
<p>b. Mixed use developments over one acre in size having a combination of commercial and residential uses.</p>	<p>10 percent increase above the base density of the zone.</p>
<p>6. Storm Drainage Facilities</p> <p>Dual use retention/detention facilities.</p> <p>a. Developments that incorporate active recreation facilities that utilize the storm water facility tract.</p>	<p>5 bonus units per acre of the storm water facility tract used for active recreation.</p>
<p>b. Developments that incorporate passive recreation facilities that utilize the storm water facility tract.</p>	<p>2 bonus units per acre of the storm water facility tract used for passive recreation.</p>
<p>7. Project Design</p> <p>a. Preservation of substantial overstory vegetation (not included within a required NGPA). No increase in permitted density shall be permitted for sites that have been cleared of evergreen trees within two years prior to the date of application for <del>PRD-land use</del> approval. Density increases granted which were based upon preservation of existing trees shall be forfeited if such trees are removed</p>	<p>5 percent increase above the base density of the zone.</p>

<b>Benefit</b>	<b>Density Incentive</b>
between the time of preliminary and final approval and issuance of building permits.	
b. Retention or creation of a perimeter buffer, composed of existing trees and vegetation, or additional plantings, in order to improve design or compatibility between neighboring land uses.	1 bonus unit per 500 lineal feet of perimeter buffer retained, enhanced or created (when not otherwise required by city code).
<p>c. Installation of perimeter fencing <del>or</del> <u>and</u> landscaping, <u>at least six feet in width</u>, in order to improve design or compatibility between neighboring land uses.</p> <p><u>This benefit shall not be pursued when any of the following circumstances apply: 1) fencing or landscaping is otherwise required by code, or 2) landscaping is voluntarily provided in order to deviate from other code requirements.</u></p>	1 bonus unit per 500 lineal feet of perimeter fencing or landscaping installed (when not otherwise required by code).
d. Project area assembly involving 20 acres or more, incorporating a mixture of housing types (detached/attached) and densities.	10 percent increase above the base density of the zone.
e. Private park and open space facilities integrated into project design.	5 bonus units per improved acre of park and open space area. Ongoing facility maintenance provisions are required as part of RDI approval.
<u>f. Enhanced Entry Landscaping</u>	<u>1 bonus unit per 2,500 sf of additional enhanced entry landscaped area (when not otherwise required by code). A minimum of 1,000 sf of entry landscaping of exceptional, outstanding or unique design, as determined by the director must be provided in order to qualify for this benefit.</u>
<p><del>8. Energy Conservation-Green Building</del></p> <p>a. Construction of a certified Leader in Energy and Environmental Design (LEED) <u>Gold or better rating</u>, Evergreen Sustainable Development Standard (ESDS), Built Green <u>4-Star or better</u></p>	0.20 bonus unit for each certified unit constructed.

Benefit	Density Incentive
<p><del>rating, or other equivalent certified energy efficient unit as approved by the director.</del></p> <p><del>Certification due 120 days after final building inspections granted, or a Certificate of Occupancy is issued.</del></p>	
<p><del>9. Low Impact Development (LID)</del></p> <p><del>a. Integration of LID measures in project design and stormwater facility construction.</del></p>	<p><del>-</del></p> <p><del>5—10 percent increase over base density (range dependent on degree of LID integration in project design and construction).</del></p>
<p><del>10. Pedestrian Connections and Walkability</del></p> <p><del>a. Construction of an identified pedestrian/bicycle deficiency (per city of Marysville improvement plan). Improvements may consist of paved shoulder, sidewalk or detached path or walkway depending on adjoining conditions.</del></p>	<p><del>1 bonus unit per 75 lineal feet of frontage improvement (curb, gutter, sidewalks) on minor arterial streets. (Fee in lieu of improvement at \$15,000 per bonus unit.)</del></p> <p><del>1 bonus unit per 100 lineal feet of frontage improvement (curb, gutter, sidewalks) on neighborhood collector or collector arterial streets.</del></p> <p><del>1 bonus unit per 300 lineal feet of walkway improvement (7 foot paved shoulder or walkway). (Rate may be increased if additional right of way is required.)</del></p>
<p><del>119. Critical Areas Buffer Enhancement</del></p> <p><del>a. Enhancement of a degraded critical areas buffer, in accordance with Chapter 22E.010 MMC, Critical Areas Management.</del></p>	<p><del>-</del></p> <p><del>1 bonus unit per acre of buffer enhancement in excess of what is required by Chapter 22E.010 MMC.</del></p>

(5) All benefits shall be completed prior to final subdivision, short subdivision, or binding site plan being recorded, or prior to granting a Certificate of Occupancy, unless otherwise specified in MMC Section 22C.090.030(4).

## Exhibit C

### 22C.090.040 Density bonus recreation features.

To qualify as bonus units, the recreational amenities listed in this section must be provided in excess of the recreational amenities otherwise required in the MMC for the development.

(1) Active recreation features qualifying for a density bonus shall include one or more of the following:

- (a) Multipurpose sport court;
- (b) Basketball court;
- (c) Tennis court;
- (d) Tot lot with play equipment (soft surface);
- (e) Any other active recreation use approved by the director.

(2) Passive recreation qualifying for density bonus shall include one or more of the following:

- (a) Open play areas;
- (b) Pedestrian or bicycle paths;
- (c) Picnic areas with tables and benches;
- (d) Gazebos, benches and other resident gathering areas;
- (e) Community gardens;
- (f) Nature interpretive areas;
- (g) Waterfalls, fountains, streams;
- (h) Any other passive recreation use approved by the director.

(3) Design in ponds as dual use storm water retention/detention and/or recreation facilities.

- (a) The facility ~~should~~ shall be designed with emphasis as a recreation area, not a storm water control structure. The majority of the storm water retention/detention tract shall be designed as usable open recreation area.
- (b) Control structures shall not be prominently placed. Care should be taken to blend them into the perimeter of the recreation area.

(c) The number of accesses shall be minimized, and the accesses should be paved or designed to serve as both an access and an amenity. For example, an access could be painted to allow for hopscotch or other recreational activities.

{e} (d) Ponds used as recreation areas shall have a curvilinear design with a shallow water safety bench.

## Exhibit D

### 22C.090.060 Review process.

(1) All RDI proposals shall be reviewed concurrently with a primary proposal to consider the proposed site plan and methods used to earn extra density as follows:

(a) For the purpose of this section, a primary proposal is defined as a proposed rezone, subdivision or short subdivision, binding site plan, or site plan review;

(b) When the primary proposal requires a public hearing, the public hearing on the primary proposal shall serve as the hearing on the RDI proposal, and the reviewing authority shall make a consolidated decision on the proposed development and use of RDI;

(c) When the primary proposal does not require a public hearing under this title, the director shall administratively make a consolidated decision on the proposed development and use of RDI; and

(d) The notice for the RDI proposal also shall include the development's proposed density and a general description of the public benefits offered to earn extra density.

(2) RDI applications ~~which that~~ propose to earn bonus units by dedicating real property or public facilities shall include a letter from the applicable receiving agency certifying that the proposed dedication qualifies for the density incentive and will be accepted by the agency or other qualifying organization. The city of Marysville shall also approve all proposals prior to granting density incentives to the project. The proposal must meet the intent of the RDI chapter and be consistent with the city of Marysville comprehensive plan.

(3) The following are required for RDI applications that propose to earn bonus units using Green Building techniques:

(a) At time of preliminary land use (subdivision, short subdivision, binding site plan or site plan) application, the applicant shall:

(i) Identify the Green Building program being used, and the name of the third-party reviewer, if applicable;

(ii) Identify the lots that will use the Green Building techniques; and

(iii) Provide a completed draft Green Building program (e.g. Built Green) checklist identifying the Green Building techniques to be used.

(b) At time of building permit application, the applicant shall:

(i) Check the "Green Building" box on the Combined Building Permit Application;

(ii) Provide the name of the Green Building program being used, and the name of the third-party reviewer, if applicable; and

(iii) Provide a completed Green Building program checklist identifying the Green Building techniques to be used with each house model.

(c) Within 120 days of final building inspections being granted, or a Certificate of Occupancy being issued, the applicant shall provide the City with a copy of the Green Building Certification.



## Exhibit E

### **22C.090.080 ~~Applicability of development standards~~ Timing.**

~~Timing of RDI public benefit payment, covenant recording, dedication, and/or improvements are specified in the eligible public benefits table, MMC 22C.090.030 (4), or MMC 22C.090.030 (5). Public benefits cannot be deferred or bonded. When extenuating circumstances exist, and on a case-by-case basis, the Community Development Director may provide flexibility for the completion of a public benefit.~~

~~(1) RDI developments shall comply with dimensional standards of the zone with a base density most closely comparable to the total approved density of the RDI development.~~

~~(2) RDI developments in the R-12 through R-28 zones and the mixed-use zone shall be landscaped in accordance with Chapter 22C.120 MMC.~~

~~(3) RDI developments shall provide parking as follows:~~

~~(a) Projects with 100 percent affordable housing shall provide one off-street parking space per unit. The community development director may require additional parking, up to the maximum standards for attached dwelling units, which may be provided in common parking areas.~~

~~(b) All other RDI proposals shall provide parking consistent with Chapter 22C.130 MMC.~~

~~(4) RDI developments shall provide on-site recreation space at the levels required in MMC 22C.010.320 and 22C.020.270.~~

## **Exhibit F**

### 22C.090.090 Enforcement.

In the event the approved residential density option is no longer feasible or cannot be achieved prior to final subdivision, short subdivision, or binding site plan being recorded, or prior to issuance of a Certificate of Occupancy, the project proponent shall be required to choose a new benefit from the benefit options outlined in MMC 22C.090.030 (4) in order to achieve the density bonus lot or unit, or the bonus lot or unit shall be forfeited.